



GENERAL ASSEMBLY

COMMONWEALTH OF KENTUCKY

2009 REGULAR SESSION

SENATE BILL NO. 78

WEDNESDAY, FEBRUARY 25, 2009

The following bill was reported to the House from the Senate and ordered to be printed.

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TREY GRAYSON
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY P. Kinsolving

AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

1 ➔Section 1. KRS 11.065 is amended to read as follows:

- 2 (1) The secretaries of the Justice and Public Safety Cabinet, the Education and
 3 Workforce Development Cabinet, the Environmental and Public Protection
 4 Cabinet, the Transportation Cabinet, the Cabinet for Economic Development, the
 5 Cabinet for Health and Family Services, the Finance and Administration Cabinet,
 6 the Commerce Cabinet, the Personnel Cabinet, the Governor's Executive Cabinet,
 7 the state budget director, the Governor's chief of staff, and the Lieutenant Governor
 8 shall constitute the Governor's Executive Cabinet. There shall be a vice chairman
 9 appointed by the Governor who shall serve in an advisory capacity to the Executive
 10 Cabinet. The Governor shall be the chairman, and the secretary of the Finance and
 11 Administration Cabinet shall be a second vice chairman of the Executive Cabinet.
 12 The Governor may designate others to serve as vice chairman.
- 13 (2) The cabinet shall meet not less than once every two (2) months and at other times
 14 on call of the Governor. The Executive Cabinet shall be a part of the Office of the
 15 Governor and shall not constitute a separate department or agency of the state.
 16 Members of the cabinet shall be the major assistants to the Governor in the
 17 administration of the state government and shall assist the Governor in the proper
 18 operation of his office and perform other duties the Governor may require of them.
- 19 (3) The cabinet shall consider matters involving policies and procedures the Governor
 20 or any member may place before it. The cabinet shall advise and consult with the
 21 Governor on all matters affecting the welfare of the state.

22 ➔Section 2. KRS 12.020 is amended to read as follows:

23 Departments, program cabinets and their departments, and the respective major
 24 administrative bodies that they include are enumerated in this section. It is not intended
 25 that this enumeration of administrative bodies be all-inclusive. Every authority, board,

1 bureau, interstate compact, commission, committee, conference, council, office, or any
 2 other form of organization shall be included in or attached to the department or program
 3 cabinet in which they are included or to which they are attached by statute or statutorily
 4 authorized executive order; except in the case of the Personnel Board and where the
 5 attached department or administrative body is headed by a constitutionally elected officer,
 6 the attachment shall be solely for the purpose of dissemination of information and
 7 coordination of activities and shall not include any authority over the functions,
 8 personnel, funds, equipment, facilities, or records of the department or administrative
 9 body.

10 I. Cabinet for General Government - Departments headed by elected officers:

- 11 1. The Governor.
- 12 2. Lieutenant Governor.
- 13 3. Department of State.
 - 14 (a) Secretary of State.
 - 15 (b) Board of Elections.
 - 16 (c) Registry of Election Finance.
- 17 4. Department of Law.
 - 18 (a) Attorney General.
- 19 5. Department of the Treasury.
 - 20 (a) Treasurer.
- 21 6. Department of Agriculture.
 - 22 (a) Commissioner of Agriculture.
 - 23 (b) Kentucky Council on Agriculture.
- 24 7. Auditor of Public Accounts.

25 II. Program cabinets headed by appointed officers:

- 26 1. Justice and Public Safety Cabinet:
 - 27 (a) Department of Kentucky State Police.

- 1 (b) Department of Criminal Justice Training.
- 2 (c) Department of Corrections.
- 3 (d) Department of Juvenile Justice.
- 4 (e) Office of the Secretary.
- 5 (f) Office of Drug Control Policy.
- 6 (g) Office of Legal Services.
- 7 (h) Office of the Kentucky State Medical Examiner.
- 8 (i) Parole Board.
- 9 (j) Kentucky State Corrections Commission.
- 10 (k) Office of Legislative and Intergovernmental Services.
- 11 (l) Office of Management and Administrative Services.
- 12 (m) Office of Public Safety Training.
- 13 (n) Office of Investigations.
- 14 (o) Department of Kentucky Vehicle Enforcement.
- 15 (p) Department for Public Advocacy.
- 16 2. Education and Workforce Development Cabinet:
- 17 (a) Office of the Secretary.
- 18 (b) Office of Legal and Legislative Services.
- 19 1. Client Assistance Program.
- 20 (c) Office of Communication.
- 21 (d) ~~Office of Legislative and Intergovernmental Affairs.~~
- 22 (e) Office of Budget and Administration.
- 23 1. Division of Human Resources.
- 24 2. Division of Administrative Services.
- 25 3. Division of Technology Services.
- 26 (e) Office of Educational Programs.
- 27 (f) Board of Directors for the Center for School Safety.

- 1 (g) Council on Postsecondary Education.
- 2 1. Foundation for Adult Education.
- 3 (h) Department of Education.
- 4 1. Kentucky Board of Education.
- 5 (i) Department for Libraries and Archives.
- 6 (j) Department of Workforce Investment.
- 7 1. Office for the Blind.
- 8 2. Office of Vocational Rehabilitation.
- 9 3. Office of Career and Technical Education.
- 10 4. Office of Employment and Training.
- 11 (k) Foundation for Workforce Development.
- 12 (l) Kentucky Office for the Blind State Rehabilitation Council.
- 13 (m) Kentucky Technical Education Personnel Board.
- 14 (n) Kentucky Workforce Investment Board.
- 15 (o) Statewide Council for Vocational Rehabilitation.
- 16 (p) Statewide Independent Living Council.
- 17 (q) Unemployment Insurance Commission.
- 18 (r) Education Professional Standards Board.
- 19 1. Division of Educator Preparation.
- 20 2. Division of Certification.
- 21 3. Division of Professional Learning and Assessment.
- 22 4. Division of Legal Services.
- 23 (s) Kentucky Commission on the Deaf and Hard of Hearing.
- 24 (t) Kentucky Educational Television.
- 25 (u) Kentucky Environmental Education Council.
- 26 3. Environmental and Public Protection Cabinet:
- 27 (a) Office of the Secretary.

1. Office of Legislative and Intergovernmental Affairs.
2. Office of Communications and Public Outreach.
3. Office of Regulatory Affairs.
4. Office of Legal Services.
5. Office of Administrative and Information Services.
6. Office of Administrative Hearings.
7. Office of Inspector General.
8. Mine Safety Review Commission.
9. Workers' Compensation Board.
10. Kentucky State Nature Preserves Commission.
11. Kentucky Environmental Quality Commission.
12. Kentucky Occupational Safety and Health Review Commission.

(b) Department for Environmental Protection.

1. Office of the Commissioner.
2. Division of Air Quality.
3. Division of Water.
4. Division of Environmental Services.
5. Division of Waste Management.
6. Division of Enforcement.
7. Division of Compliance Assistance.

(c) Department for Natural Resources.

1. Office of the Commissioner.
2. Office of Technical and Administrative Support.
3. Division of Mine Permits.
4. Division of Mine Reclamation and Enforcement.
5. Division of Abandoned Mine Lands.
6. Division of Oil and Gas Conservation.

- 1 7. Office of Mine Safety and Licensing.
- 2 8. Division of Forestry.
- 3 9. Division of Conservation.
- 4 (d) Department of Public Protection.
- 5 1. Office of the Commissioner.
- 6 2. Division of Administrative Services.
- 7 3. Crime Victims Compensation Board.
- 8 4. Board of Claims.
- 9 5. Board of Tax Appeals.
- 10 6. Kentucky Boxing and Wrestling Authority.
- 11 7. Kentucky Horse Racing Authority.
- 12 8. Kentucky Public Service Commission.
- 13 9. Office of Alcoholic Beverage Control.
- 14 10. Office of Charitable Gaming.
- 15 11. Office of Financial Institutions.
- 16 12. Office of Housing, Buildings and Construction.
- 17 13. Office of Insurance.
- 18 (e) Department of Labor.
- 19 1. Office of the Commissioner.
- 20 2. Office of Occupational Safety and Health.
- 21 3. Office of Labor Management Relations and Mediation.
- 22 4. Office of Workplace Standards.
- 23 5. Office of Workers' Claims.
- 24 6. Workers' Compensation Funding Commission.
- 25 7. Kentucky Labor Management Advisory Council.
- 26 8. Occupational Safety and Health Standards Board.
- 27 9. Prevailing Wage Review Board.

- 1 10. Kentucky Employees Insurance Association.
- 2 11. Apprenticeship and Training Council.
- 3 12. State Labor Relations Board.
- 4 13. Workers' Compensation Advisory Council.
- 5 14. Workers' Compensation Nominating Commission.
- 6 15. Employers' Mutual Insurance Authority.
- 7 16. Division of Administrative Services.
- 8 4. Transportation Cabinet:
- 9 (a) Department of Highways.
- 10 1. Office of Program Planning and Management.
- 11 2. Office of Project Development.
- 12 3. Office of Construction and Operations.
- 13 4. Office of Intermodal Programs.
- 14 5. Highway District Offices One through Twelve.
- 15 (b) Department of Vehicle Regulation.
- 16 (c) Department of Administrative Services.
- 17 (d) Department of Aviation.
- 18 (e) Department of Intergovernmental Programs.
- 19 1. Office of Transportation Enhancement Programs.
- 20 2. Office of Rural and Secondary Roads.
- 21 (f) Office of the Secretary.
- 22 1. Office of Legislative and Intergovernmental Affairs.
- 23 2. Office of Public Affairs.
- 24 3. Office of Transportation Delivery.
- 25 4. Office for Business and Occupational Development.
- 26 5. Office of Budget and Fiscal Management.
- 27 6. Office of Legal Services.

- 1 7. Office of Inspector General.
- 2 8. Office of the Transportation Operations Center.
- 3 9. Office of Personnel Management.
- 4 5. Cabinet for Economic Development:
 - 5 (a) Office of Administration and Support.
 - 6 (b) Department for New Business Development.
 - 7 (c) Department of Financial Incentives.
 - 8 (d) Department for Existing Business Development.
 - 9 (e) Tobacco Research Board.
 - 10 (f) Kentucky Economic Development Finance Authority.
 - 11 (g) Office of Research and Information Technology.
 - 12 (h) Department of Commercialization and Innovation.
 - 13 (i) Office of Legal Services.
 - 14 (j) Commission on Small Business Advocacy.
- 15 6. Cabinet for Health and Family Services:
 - 16 (a) Department for Public Health.
 - 17 (b) Department for Medicaid Services.
 - 18 (c) Department for Mental Health and Mental Retardation Services.
 - 19 (d) Kentucky Commission for Children with Special Health Care Needs.
 - 20 (e) Office of Health Policy.
 - 21 (f) Office of the Secretary.
 - 22 (g) Office of Legal Services.
 - 23 (h) Office of Inspector General.
 - 24 (i) Office of Legislative and Public Affairs.
 - 25 (j) Department for Community Based Services.
 - 26 (k) Department for Disability Determination Services.
 - 27 (l) Office of the Ombudsman.

- 1 (m) Department for Human Support Services.
- 2 (n) Kentucky Commission on Community Volunteerism and Service.
- 3 (o) Office of Fiscal Services.
- 4 (p) Office of Human Resource Management.
- 5 (q) Office of Technology.
- 6 (r) Office of Contract Oversight.
- 7 (s) Governor's Office of Wellness and Physical Activity.
- 8 (t) Department for Aging and Independent Living.
- 9 7. Finance and Administration Cabinet:
- 10 (a) Office of General Counsel.
- 11 (b) Office of the Controller.
- 12 (c) Office of Administrative Services.
- 13 (d) Office of Public Information.
- 14 (e) Department for Facilities and Support Services.
- 15 (f) Department of Revenue.
- 16 (g) Commonwealth Office of Technology.
- 17 (h) State Property and Buildings Commission.
- 18 (i) Kentucky Savings Bond Authority.
- 19 (j) Office of Equal Employment Opportunity and Contract Compliance.
- 20 (k) Kentucky Employees Retirement Systems.
- 21 (l) Commonwealth Credit Union.
- 22 (m) State Investment Commission.
- 23 (n) Kentucky Housing Corporation.
- 24 (o) Kentucky Local Correctional Facilities Construction Authority.
- 25 (p) Kentucky Turnpike Authority.
- 26 (q) Historic Properties Advisory Commission.
- 27 (r) Kentucky Tobacco Settlement Trust Corporation.

- 1 (s) State Board for Proprietary Education.
- 2 (t) Kentucky Higher Education Assistance Authority.
- 3 (u) Kentucky River Authority.
- 4 (v) Kentucky Teachers' Retirement System Board of Trustees.
- 5 8. Commerce Cabinet:
- 6 (a) Department of Tourism.
 - 7 (1) Division of Tourism Services.
 - 8 (2) Division of Marketing and Advertising.
 - 9 (3) Division of Parks Marketing.
- 10 (b) Kentucky Department of Parks.
 - 11 (1) Division of Information Technology.
 - 12 (2) Division of Personnel and Payroll.
 - 13 (3) Division of Financial Operations.
 - 14 (4) Division of Facilities Management.
 - 15 (5) Division of Facilities Maintenance.
 - 16 (6) Division of Customer Services.
 - 17 (7) Division of Recreation.
 - 18 (8) Division of Golf Courses.
 - 19 (9) Division of Food Services.
 - 20 (10) Division of Rangers.
 - 21 (11) Division of Eastern Parks.
 - 22 (12) Division of Southern Parks.
 - 23 (13) Division of Western Parks.
- 24 (c) Department of Fish and Wildlife Resources.
 - 25 (1) Division of Law Enforcement.
 - 26 (2) Division of Administrative Services.
 - 27 (3) Division of Engineering.

- 1 (4) Division of Fisheries.
- 2 (5) Division of Information and Education.
- 3 (6) Division of Wildlife.
- 4 (7) Division of Public Affairs.
- 5 (d) Kentucky Horse Park.
- 6 (1) Division of Support Services.
- 7 (2) Division of Buildings and Grounds.
- 8 (3) Division of Operational Services.
- 9 (e) Kentucky State Fair Board.
- 10 (1) Division of Expositions and Admission.
- 11 (2) Division of Kentucky Fair and Exposition Center Operations.
- 12 (3) Division of Commonwealth Convention Center.
- 13 (4) Division of Public Relations and Media.
- 14 (5) Division of Administrative Services.
- 15 (6) Division of Personnel Management and Staff Development.
- 16 (7) Division of Sales.
- 17 (8) Division of Security and Traffic Control.
- 18 (f) Office of the Secretary.
- 19 (g) Office of Finance and Administration.
- 20 (h) Office of Legal Affairs.
- 21 (i) Office of Intergovernmental Affairs.
- 22 (j) Office of Human Resources.
- 23 (k) Office of Public Affairs and Constituent Services.
- 24 (l) Office of Information Technology.
- 25 (m) Office of the Kentucky Sports Authority.
- 26 (1) Kentucky Sports Authority Board.
- 27 (n) Office of Creative Services.

- 1 (o) Office of Capital Plaza Operations.
- 2 (p) Office of Arts and Cultural Heritage.
- 3 (q) Kentucky African-American Heritage Commission.
- 4 (r) Kentucky Foundation for the Arts.
- 5 (s) Kentucky Humanities Council.
- 6 (t) Kentucky Heritage Council.
- 7 (u) Kentucky Arts Council.
- 8 (v) Kentucky Historical Society.
- 9 (1) Division of Museums.
- 10 (2) Division of Oral History and Educational Outreach.
- 11 (3) Division of Research and Publications.
- 12 (4) Division of Administration.
- 13 (w) Kentucky Center for the Arts.
- 14 (1) Division of Governor's School for the Arts.
- 15 (x) Kentucky Artisans Center at Berea.
- 16 (y) Martin Luther King Commission.
- 17 (z) Northern Kentucky Convention Center.
- 18 (aa) Eastern Kentucky Exposition Center.
- 19 9. Personnel Cabinet:
- 20 (a) Office of the Secretary.
- 21 (b) Department for Personnel Administration.
- 22 (c) Office for Employee Relations.
- 23 (d) Kentucky Public Employees Deferred Compensation Authority.
- 24 (e) Office of Administrative Services.
- 25 (f) Office of Legal Services.
- 26 (g) Office of Government Training.
- 27 (h) Department for Employee Insurance.

1 III. Other departments headed by appointed officers:

- 2 1. Department of Military Affairs.
- 3 2. Governor's Office for Local Development.
- 4 3. Kentucky Commission on Human Rights.
- 5 4. Kentucky Commission on Women.
- 6 5. Department of Veterans' Affairs.
- 7 6. Kentucky Commission on Military Affairs.
- 8 7. Office of Minority Empowerment.
- 9 8. Governor's Council on Wellness and Physical Activity.

10 ➔Section 3. KRS 12.250 is amended to read as follows:

11 There are established within state government the following program cabinets:

- 12 (1) Justice and Public Safety Cabinet.
- 13 (2) Education ***and Workforce Development*** Cabinet.
- 14 (3) Environmental and Public Protection Cabinet.
- 15 (4) Transportation Cabinet.
- 16 (5) Cabinet for Economic Development.
- 17 (6) Cabinet for Health and Family Services.
- 18 (7) Finance and Administration Cabinet.
- 19 (8) Commerce Cabinet.
- 20 (9) Personnel Cabinet.

21 ➔Section 4. KRS 12.515 is amended to read as follows:

- 22 (1) The following agencies shall designate a liaison to the Office for Faith-Based and
- 23 Community Nonprofit Social Services:
- 24 (a) The Cabinet for Health and Family Services;
- 25 (b) The Department of Workforce Investment;
- 26 (c) The Education ***and Workforce Development*** Cabinet;
- 27 (d) The Department of Agriculture;

1 (e) The Kentucky Housing Corporation;

2 (f) The Environmental and Public Protection Cabinet; and

3 (g) The Economic Development Cabinet.

4 (2) Each agency identified in subsection (1) of this section shall, in cooperation and
5 coordination with the Office for Faith-Based and Community Nonprofit Social
6 Services:

7 (a) Review and evaluate existing policies that affect government funding
8 opportunities for faith-based and nonprofit community organizations and
9 report to the office, within ninety (90) days of June 20, 2005, actions
10 necessary to implement KRS 12.510; and

11 (b) Amend existing policies and administrative regulations or implement new
12 policies or administrative regulations in accordance with KRS Chapter 13A
13 consistent with the principles established in KRS 12.500 to 12.520.

14 ➔Section 5. KRS 12.550 is amended to read as follows:

15 (1) The Governor's Council on Wellness and Physical Activity is hereby established
16 and authorized to operate the Governor's Wellness and Physical Activity Program,
17 Inc. for the purpose of establishing and implementing a health, wellness, and fitness
18 program for Kentucky and to promote a healthy lifestyle for all citizens of the
19 Commonwealth. The Governor's Council on Wellness and Physical Activity shall
20 be attached to the Office of the Governor for administrative purposes.

21 (a) The ex officio members of the Governor's Council on Wellness and Physical
22 Activity shall be as follows:

23 1. The Governor or the Governor's designee from the executive cabinet;

24 2. The secretary of the Cabinet for Health and Family Services or designee;

25 3. The secretary of the Personnel Cabinet or designee;

26 4. The secretary of the Education and Workforce Development Cabinet;

27 5. The Senate co-chair of the Interim Joint Committee on Health and

1 Welfare of the General Assembly; and

2 6. The House co-chair of the Interim Joint Committee on Health and
3 Welfare of the General Assembly.

4 (b) In addition to the ex officio members, the Governor shall appoint five (5)
5 council members to serve three (3) year terms on the Governor's Council on
6 Wellness and Physical Activity. Members appointed by the Governor may be
7 reappointed by the Governor to serve successive terms. In making
8 appointments, the Governor shall attempt to include individuals from different
9 geographic regions of the Commonwealth of Kentucky. The Governor shall
10 make appointments to fill vacancies as they occur. Each appointment after the
11 initial appointment shall be for a three (3) year term unless the appointment is
12 to fill the unexpired portion of a term.

13 (c) The Governor or, if so designated by the Governor, the chairman of the
14 council shall have the authority to hire, fire, and manage all personnel of the
15 Governor's Wellness and Physical Activity Program, Inc., including the
16 executive director.

17 (d) The council shall administer funds appropriated or gifts, donations, or funds
18 received from any source. The council may expend funds in its discretion to
19 carry out the intent of KRS 12.020, 12.023, 12.550, 194A.030 and 194A.085.

20 (e) The council shall closely coordinate with the Governor's Office of Wellness
21 and Physical Activity to establish policies and procedures.

22 (f) The council shall select from its membership a chairman and any other
23 officers it considers essential. The council may have committees and
24 subcommittees as determined by the council.

25 (g) The council shall develop funding and support plans that provide for the
26 maintenance of the Governor's Office of Wellness and Physical Activity, and
27 shall make recommendations to the Governor and secretary of the Cabinet for

1 Health and Family Services.

2 (h) The council shall meet quarterly or more often as necessary for the conduct of
3 its business. A majority of the members shall constitute a quorum for the
4 transaction of business. Members' designees shall have voting privileges at
5 committee meetings.

6 (i) Members of the council shall serve without compensation but shall be
7 reimbursed for their necessary travel expenses actually incurred in the
8 discharge of their duties on the council, subject to Finance and Administration
9 Cabinet administrative regulations.

10 (j) The council may establish working groups as necessary.

11 (k) The council shall establish the Governor's Wellness and Physical Activity
12 Program, Inc. pursuant to the requirements in KRS 12.020, 12.023, 12.550,
13 194A.030, and 194A.085.

14 (2) Funds appropriated for purposes of the program shall only be used to facilitate the
15 goals of the Governor's Office of Wellness and Physical Activity and shall not lapse
16 at the end of the fiscal year.

17 (3) (a) The Governor's Wellness and Physical Activity Program, Inc. shall follow
18 standard accounting practices and shall submit the following financial reports
19 to the Office of the Governor, the Finance and Administration Cabinet, and
20 the Legislative Research Commission:

21 1. Quarterly reports of expenditures of state funds, submitted on or before
22 the thirtieth day after the end of each quarter in the corporation's fiscal
23 year;

24 2. Annual reports of receipts and expenditures for the Governor's Wellness
25 and Physical Activity Program, Inc., submitted on or before the sixtieth
26 day after the end of the fiscal year of the corporation; and

27 3. The report of an annual financial audit conducted by an independent

auditor, submitted on or before September 1 of each year.

(b) The Governor's Wellness and Physical Activity Program, Inc. and the Governor's Office of Wellness and Physical Activity shall file quarterly reports with the Office of the Governor and the Legislative Research Commission. The report shall include a detail of the operations of the program for the preceding year. The report shall include information concerning the participant demographics, number of incentives distributed, and program outcomes according to such measures of success as the board may adopt.

➔Section 6. KRS 13B.020 is amended to read as follows:

- (1) The provisions of this chapter shall apply to all administrative hearings conducted by an agency, with the exception of those specifically exempted under this section. The provisions of this chapter shall supersede any other provisions of the Kentucky Revised Statutes and administrative regulations, unless exempted under this section, to the extent these other provisions are duplicative or in conflict. This chapter creates only procedural rights and shall not be construed to confer upon any person a right to hearing not expressly provided by law.
- (2) The provisions of this chapter shall not apply to:
 - (a) Investigations, hearings to determine probable cause, or any other type of information gathering or fact finding activities;
 - (b) Public hearings required in KRS Chapter 13A for the promulgation of administrative regulations;
 - (c) Any other public hearing conducted by an administrative agency which is nonadjudicatory in nature and the primary purpose of which is to seek public input on public policy making;
 - (d) Military adjudicatory proceedings conducted in accordance with KRS Chapter 35;
 - (e) Administrative hearings conducted by the legislative and judicial branches of

- 1 state government;
- 2 (f) Administrative hearings conducted by any city, county, urban-county, charter
- 3 county, or special district contained in KRS Chapters 65 to 109, or any other
- 4 unit of local government operating strictly in a local jurisdictional capacity;
- 5 (g) Informal hearings which are part of a multilevel hearing process that affords
- 6 an administrative hearing at some point in the hearing process if the
- 7 procedures for informal hearings are approved and promulgated in accordance
- 8 with subsections (4) and (5) of this section;
- 9 (h) Limited exemptions granted for specific hearing provisions and denoted by
- 10 reference in the text of the applicable statutes or administrative regulations;
- 11 (i) Administrative hearings exempted pursuant to subsection (3) of this section;
- 12 (j) Administrative hearings exempted, in whole or in part, pursuant to
- 13 subsections (4) and (5) of this section; and
- 14 (k) Any administrative hearing which was commenced but not completed prior to
- 15 July 15, 1996.
- 16 (3) The following administrative hearings are exempt from application of this chapter
- 17 in compliance with 1994 Ky. Acts ch. 382, sec. 19:
- 18 (a) Finance and Administration Cabinet
- 19 1. Higher Education Assistance Authority
- 20 a. Wage garnishment hearings conducted under authority of 20
- 21 U.S.C. sec. 1095a and 34 C.F.R. sec. 682.410
- 22 b. Offset hearings conducted under authority of 31 U.S.C. sec. 3720A
- 23 and sec. 3716, and 34 C.F.R. sec. 30.33
- 24 2. Department of Revenue
- 25 a. Any licensing and bond revocation hearings conducted under the
- 26 authority of KRS 138.210 to 138.448 and 234.310 to 234.440
- 27 b. Any license revocation hearings under KRS 131.630 and 138.130

1 to 138.205

2 (b) Cabinet for Health and Family Services

3 1. Office of Health Policy

4 a. Certificate-of-need hearings and licensure conducted under
5 authority of KRS Chapter 216B

6 b. Licensure revocation hearings conducted under authority of KRS
7 Chapter 216B

8 2. Department for Community Based Services

9 a. Supervised placement revocation hearings conducted under
10 authority of KRS Chapter 630

11 3. Department for Disability Determination Services

12 a. Disability determination hearings conducted under authority of 20
13 C.F.R. sec. 404

14 (c) Justice and Public Safety Cabinet

15 1. Department of Kentucky State Police

16 a. Kentucky State Police Trial Board disciplinary hearings conducted
17 under authority of KRS Chapter 16

18 2. Department of Corrections

19 a. Parole Board hearings conducted under authority of KRS Chapter
20 439

21 b. Prison adjustment committee hearings conducted under authority
22 of KRS Chapter 197

23 c. Prison grievance committee hearings conducted under authority of
24 KRS Chapters 196 and 197

25 3. Department of Juvenile Justice

26 a. Supervised placement revocation hearings conducted under KRS
27 Chapter 635

- 1 (d) Environmental and Public Protection Cabinet
- 2 1. Department for Natural Resources
- 3 a. Surface mining hearings conducted under authority of KRS
- 4 Chapter 350
- 5 2. Department for Environmental Protection
- 6 a. Wild River hearings conducted under authority of KRS Chapter
- 7 146
- 8 b. Water resources hearings conducted under authority of KRS
- 9 Chapter 151
- 10 c. Water plant operator and water well driller hearings conducted
- 11 under authority of KRS Chapter 223
- 12 d. Environmental protection hearings conducted under authority of
- 13 KRS Chapter 224
- 14 e. Petroleum Storage Tank Environmental Assurance Fund hearings
- 15 under authority of KRS Chapter 224
- 16 3. Office of Workers' Claims
- 17 a. Workers' compensation hearings conducted under authority of
- 18 KRS Chapter 342
- 19 4. Kentucky Occupational Safety and Health Review Commission
- 20 a. Occupational safety and health hearings conducted under authority
- 21 of KRS Chapter 338
- 22 5. Department of Public Protection
- 23 a. Board of Claims
- 24 i. Liability hearings conducted under authority of KRS Chapter
- 25 44
- 26 b. Public Service Commission
- 27 i. Utility hearings conducted under authority of KRS Chapters

74, 278, and 279

(e) Education and Workforce Development Cabinet

1. Unemployment Insurance hearings conducted under authority of KRS Chapter 341

(f) Secretary of State

1. Registry of Election Finance
 - a. Campaign finance hearings conducted under authority of KRS Chapter 121

(g) State universities and colleges

1. Student suspension and expulsion hearings conducted under authority of KRS Chapter 164
2. University presidents and faculty removal hearings conducted under authority of KRS Chapter 164
3. Campus residency hearings conducted under authority of KRS Chapter 164
4. Family Education Rights to Privacy Act hearings conducted under authority of 20 U.S.C. sec. 1232 and 34 C.F.R. sec. 99
5. Federal Health Care Quality Improvement Act of 1986 hearings conducted under authority of 42 U.S.C. sec. 11101 to 11115 and KRS Chapter 311.

(4) Any administrative hearing, or portion thereof, may be certified as exempt by the Attorney General based on the following criteria:

- (a) The provisions of this chapter conflict with any provision of federal law or regulation with which the agency must comply, or with any federal law or regulation with which the agency must comply to permit the agency or persons within the Commonwealth to receive federal tax benefits or federal funds or other benefits;

1 (b) Conformity with the requirement of this chapter from which exemption is
2 sought would be so unreasonable or so impractical as to deny due process
3 because of undue delay in the conduct of administrative hearings; or

4 (c) The hearing procedures represent informal proceedings which are the
5 preliminary stages or the review stages of a multilevel hearing process, if the
6 provisions of this chapter or the provisions of a substantially equivalent
7 hearing procedure exempted under subsection (3) of this section are applied at
8 some level within the multilevel process.

9 (5) The Attorney General shall not exempt an agency from any requirement of this
10 chapter until the agency establishes alternative procedures by administrative
11 regulation which, insofar as practical, shall be consistent with the intent and purpose
12 of this chapter. When regulations for alternative procedures are submitted to the
13 Administrative Regulation Review Subcommittee, they shall be accompanied by the
14 request for exemption and the approval of exemption from the Attorney General.
15 The decision of the Attorney General, whether affirmative or negative, shall be
16 subject to judicial review in the Franklin Circuit Court within thirty (30) days of the
17 date of issuance. The court shall not overturn a decision of the Attorney General
18 unless the decision was arbitrary or capricious or contrary to law.

19 (6) Except to the extent precluded by another provision of law, a person may waive any
20 procedural right conferred upon that person by this chapter.

21 ➔Section 7. KRS 15A.342 is amended to read as follows:

22 The Office of Drug Control Policy shall be responsible for all matters relating to the
23 research, coordination, and execution of drug control policy and for the management of
24 state and federal grants, including but not limited to the prevention and treatment related
25 to substance abuse. By December 31 of each year, the Office of Drug Control Policy shall
26 review, approve, and coordinate all current projects of any substance abuse program
27 which is conducted by or receives funding through agencies of the executive branch. This

1 oversight shall extend to all substance abuse programs which are principally related to the
2 prevention or treatment, or otherwise targeted at the reduction, of substance abuse in the
3 Commonwealth. The Office of Drug Control Policy shall promulgate administrative
4 regulations consistent with enforcing this oversight authority. In addition, the Office of
5 Drug Control Policy and KY-ASAP shall:

- 6 (1) Develop a strategic plan to reduce the prevalence of smoking and drug and alcohol
7 abuse among both the youth and adult populations in Kentucky;
- 8 (2) Monitor the data and issues related to youth alcohol and tobacco access, smoking
9 cessation and prevention, and substance abuse policies, their impact on state and
10 local programs, and their flexibility to adapt to the needs of local communities and
11 service providers;
- 12 (3) Make policy recommendations to be followed to the extent permitted by budgetary
13 restrictions and federal law, by executive branch agencies that work with smoking
14 cessation and prevention and alcohol and substance abuse issues to ensure the
15 greatest efficiency in agencies and to ensure that a consistency in philosophy will be
16 applied to all efforts undertaken by the administration in initiatives related to
17 smoking cessation and prevention and alcohol and substance abuse;
- 18 (4) Identify existing resources in each community that advocate or implement programs
19 for smoking cessation or prevention, or drug and alcohol abuse prevention,
20 education, or treatment;
- 21 (5) Encourage coordination among public and private, state and local, agencies,
22 organizations, and service providers, and monitor related programs;
- 23 (6) Act as the referral source of information, utilizing existing information
24 clearinghouse resources within the Department for Public Health and CHAMPIONS
25 for a Drug Free Kentucky Office, relating to youth tobacco access, smoking
26 cessation and prevention, and substance abuse prevention, cessation, and treatment
27 programs. The Office of Drug Control Policy and KY-ASAP shall identify gaps in

- 1 information referral sources;
- 2 (7) Search for grant opportunities for existing programs within the Commonwealth;
- 3 (8) Make recommendations to state and local agencies and local tobacco addiction and
- 4 substance abuse advisory and coordination boards;
- 5 (9) Observe programs from other states;
- 6 (10) Coordinate services among local and state agencies, including but not limited to the
- 7 Justice and Public Safety Cabinet, the Cabinet for Health and Family Services, the
- 8 Department of Agriculture, the Environmental and Public Protection Cabinet, the
- 9 Administrative Office of the Courts, and the Education and Workforce
- 10 Development Cabinet;
- 11 (11) Assure the availability of training, technical assistance, and consultation to local
- 12 service providers for programs funded by the Commonwealth that provide services
- 13 related to tobacco addiction, smoking cessation or prevention, or alcohol or
- 14 substance abuse;
- 15 (12) Review existing research on programs related to smoking cessation and prevention
- 16 and substance abuse prevention and treatment;
- 17 (13) Comply with any federal mandate regarding smoking cessation and prevention and
- 18 substance abuse, to the extent authorized by state statute;
- 19 (14) Establish a mechanism to coordinate the distribution of funds to support any local
- 20 prevention, treatment, and education program based on the strategic plan developed
- 21 in subsection (1) of this section that could encourage smoking cessation and
- 22 prevention through efficient, effective, and research-based strategies;
- 23 (15) Oversee a school-based initiative that links schools with community-based agencies
- 24 and health departments to implement School Programs to Prevent Tobacco Use,
- 25 based upon the model recommended by the Centers for Disease Control and
- 26 Prevention. To the extent permitted by resources, the initiative shall involve input
- 27 by and services from each of the family resource and youth services centers,

- 1 regional prevention centers, and existing school-based antidrug programs;
- 2 (16) Work with community-based organizations to encourage them to work together to
3 establish comprehensive tobacco addiction and substance abuse prevention
4 education programs and carry out the strategic plan developed in this section. These
5 organizations shall be encouraged to partner with district and local health
6 departments and community mental health centers to plan and implement
7 interventions to reach youths before tobacco addiction and substance abuse become
8 a problem in their lives;
- 9 (17) Coordinate media campaigns designed to demonstrate the negative impact of
10 smoking and the increased risk of tobacco addiction, substance abuse, and the
11 development of other disease in children, young people, and adults. To accomplish
12 this objective, KY-ASAP shall work with local media to reach all segments of the
13 community quickly and efficiently;
- 14 (18) Certify to the Governor, the secretary of the Justice and Public Safety Cabinet, and
15 the General Assembly during the budget request process established under KRS
16 Chapter 48 the extent to which each entity receiving state funds has cooperated with
17 the Office of Drug Control Policy and KY-ASAP, coordinated with community
18 resources, and vigorously pursued the philosophy of the Office of Drug Control
19 Policy and KY-ASAP;
- 20 (19) Promulgate, with the approval of the secretary of the Justice and Public Safety
21 Cabinet, any administrative regulations necessary to implement this section and
22 KRS 15A.340 and 15A.344; and
- 23 (20) Report annually to the Legislative Research Commission and Governor regarding
24 the proper organization of state government agencies that will provide the greatest
25 coordination of services, and report semiannually to the Legislative Research
26 Commission and Governor on the status of the Office of Drug Control Policy and
27 KY-ASAP programs, services, and grants, and on other matters as requested by the

1 Legislative Research Commission and Governor.

2 ➔Section 8. KRS 42.4592 is amended to read as follows:

3 (1) Moneys remaining in the local government economic development fund following
 4 the transfer of moneys to the local government economic assistance fund provided
 5 for in KRS 42.4585 and following the transfer of moneys to the secondary wood
 6 products development fund provided for in KRS 42.4586 shall be allocated as
 7 follows:

8 (a) Thirty-three and one-third percent (33-1/3%) shall be allocated to each coal
 9 producing county on the basis of the ratio of total tax collected in the current
 10 and preceding four (4) years on coal severed in each respective county to the
 11 total tax collected statewide in the current and four (4) preceding years.

12 (b) Thirty-three and one-third percent (33-1/3%) shall be allocated quarterly to
 13 each coal-producing county on the basis of the following factors, which shall
 14 be computed for the current and four (4) preceding years, and which shall be
 15 equally weighted:

- 16 1. Percentage of employment in mining in relation to total employment in
 17 the respective county;
- 18 2. Percentage of earnings from mining in relation to total earnings in the
 19 respective county; and
- 20 3. Surplus labor rate.

21 (c) Thirty-three and one-third percent (33-1/3%) shall be reserved for expenditure
 22 for industrial development projects benefiting two (2) or more coal-producing
 23 counties. For purposes of this paragraph, "coal-producing county" shall mean
 24 a county which has produced coal in the current or any one of the four (4)
 25 preceding years.

26 (2) (a) For purposes of paragraph (b) of subsection (1) of this section, "percentage of
 27 employment in mining" and "percentage of earnings from mining" shall be the

percentages published for the latest available five (5) year period by the Bureau of Economic Analysis in the United States Department of Commerce; "surplus labor rate" shall be the rate published for the latest available five (5) year period by the Office of Employment and Training of the Department of Workforce Investment in the Education and Workforce Development Cabinet, as provided in paragraph (b) of this subsection.

(b) 1. Each year the Office of Employment and Training shall estimate surplus labor for each county and for the Commonwealth and shall annually publish an estimate of the surplus labor rate for each county and the Commonwealth.

2. The estimate of surplus labor for each county and for the Commonwealth shall be made using the best practical method available at the time the estimates are made. In determining the method to be adopted, the Office of Employment and Training may consult with knowledgeable individuals, including but not limited to the Office of the United States Bureau of Labor Statistics, state and national researchers, state and local officials, and staff of the Legislative Research Commission. The description of the method used to estimate surplus labor shall be reported in each annual publication provided for in subparagraph 1. of this paragraph.

3. For purposes of this section, "surplus labor" means the total number of residents who can be classified as unemployed or as discouraged workers, and "surplus labor rate" means the percentage of the potential civilian labor force which is surplus labor.

(3) The funds allocated under the provisions of paragraphs (a) and (b) of subsection (1) of this section shall retain their identity with respect to the county to which they are attributable, and a separate accounting of available moneys within the fund shall be

maintained for the respective counties. Accounting for funds allocated under the provisions of this section shall be by the Governor's Office for Local Development.

➔Section 9. KRS 45.001 is amended to read as follows:

(1) The Capital Development Committee is created. The committee shall ensure the proper coordination of state government initiatives which impact the City of Frankfort and Franklin County government and are unique to the seat of state government.

(2) The committee shall meet at least semiannually at a time and place announced by the chairperson.

(3) The membership of the committee shall consist of the following members or their designees:

(a) The mayor of the city of Frankfort;

(b) The county judge/executive of Franklin County;

(c) The secretary of the Finance and Administration Cabinet;

(d) The secretary of the Commerce Cabinet;

(e) The secretary of the Education and Workforce Development Cabinet;

(f) The commissioner of the Department of Tourism;

(g) The executive director of the Office of Capital Plaza Operations;

(h) The chairman of the Frankfort/Franklin County Tourist and Convention Commission;

(i) A citizen at large, who is a resident of Franklin County, appointed by the Franklin County judge/executive; and

(j) A citizen at large, who is a resident of Frankfort, appointed by the mayor of the city of Frankfort.

The citizen-at-large members of the committee shall be appointed to a term of four

(4) years each.

(4) The Governor shall appoint the chairperson of the committee.

1 (5) Members of the committee shall serve without compensation.

2 (6) The Office of Capital Plaza Operations shall provide administrative support to the
3 committee.

4 ➔Section 10. KRS 45A.470 is amended to read as follows:

5 (1) All governmental bodies and political subdivisions of this state shall, when
6 purchasing commodities or services, give first preference to the products made by
7 the Department of Corrections, Division of Prison Industries, as required by KRS
8 197.210. Second preference shall be given to the Kentucky industries for the blind
9 as described in KRS 163.450 to 163.470 through June 30, 2000, and thereafter to
10 any products produced by Kentucky Industries for the Blind, Incorporated or any
11 other nonprofit corporation with which the Office for the Blind contracts under
12 KRS 163.480(2) to further the purposes of KRS Chapter 163 and agencies of
13 individuals with severe disabilities as described in KRS 45A.465.

14 (2) The Finance and Administration Cabinet shall make a list of commodities and
15 services provided by these agencies and organizations available to all governmental
16 bodies and political subdivisions. The list shall identify in detail the commodity or
17 service the agency or organization may supply and the price.

18 (3) The Finance and Administration Cabinet shall annually determine the current price
19 range for the commodities and services offered from its experience in purchasing
20 these commodities or services on the open market. The prices quoted by these
21 agencies or organizations shall not exceed the current price range.

22 (4) The Office for the Blind within the Education and Workforce Development Cabinet
23 and qualified agencies for individuals with severe disabilities shall annually cause to
24 be made available to the Finance and Administration Cabinet, lists of the products
25 or services available.

26 (5) If two (2) or more of the agencies or qualified nonprofit organizations wish to
27 supply identical commodities or services, the Finance and Administration Cabinet

1 shall conduct negotiations with the parties to determine which shall be awarded the
 2 contract. The decision of the Finance and Administration Cabinet shall be based
 3 upon quality of the commodity or service and the ability of the respective agencies
 4 to supply the commodity or service within the requested delivery time.

5 ➔Section 11. KRS 141.065 is amended to read as follows:

6 (1) For the purposes of this section, "code" or "Internal Revenue Code" means the
 7 Internal Revenue Code in effect as of December 31, 1981.

8 (2) There shall be allowed as a credit for any taxpayer against the tax imposed by KRS
 9 141.020 or 141.040 and 141.0401 for any taxable year, with the ordering of the
 10 credits as provided in KRS 141.0205, an amount equal to one hundred dollars
 11 (\$100) for each person hired by the taxpayer, if that person has been classified as
 12 unemployed by the Office of Employment and Training of the Department of
 13 Workforce Investment in the Education and Workforce Development Cabinet and
 14 has been so classified for at least sixty (60) days prior to his employment by the
 15 taxpayer, and if further that person has remained in the employ of the taxpayer for at
 16 least one hundred eighty (180) consecutive days during the taxable year in which
 17 the taxpayer claims the credit.

18 (3) No credit shall be allowed to any taxpayer for any person hired under any of the
 19 following circumstances:

20 (a) A person for whom the taxpayer receives federally funded payments for on-
 21 the-job training;

22 (b) For any person who bears any of the relationships to the taxpayer described in
 23 paragraphs (1) through (8) of Section 152(a) of the Internal Revenue Code, or,
 24 if the taxpayer is a corporation, to an individual who owns, directly or
 25 indirectly, more than fifty percent (50%) in value of the outstanding stock of
 26 the corporation as determined with the application of Section 267(c) of the
 27 code;

- 1 (c) If the taxpayer is an estate or trust, to any person who is a grantor, beneficiary,
2 or fiduciary of the estate or trust, or is an individual who bears any of the
3 relationships described in paragraphs (1) through (8) of Section 152(a) of the
4 code to a grantor, beneficiary, or fiduciary of the estate or trust; or
- 5 (d) To any person who is a dependent of the taxpayer as described in code Section
6 152(a)(9), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or
7 fiduciary of the estate or trust.
- 8 (4) For purposes of this section, all employees of all corporations which are members
9 of the same controlled group of corporations shall be treated as employed by a
10 single employer. In no instance shall the credit, if any, allowable by subsection (2)
11 of this section for any employee qualified thereunder be claimed more than once for
12 any taxable year by such a controlled group of corporations. For purposes of this
13 subsection, the term "controlled group of corporations" has the meaning given to
14 that term by code Section 1563(a), except that "more than fifty percent (50%)" shall
15 be substituted for "at least eighty percent (80%)" each place it appears in code
16 Section 1563(a)(1), and the determination shall be made without regard to
17 subsections (a)(4) and (e)(3)(c) of code Section 1563.
- 18 (5) For purposes of this section, all employees of trades or businesses (whether or not
19 incorporated) which are under common control shall be treated as employed by a
20 single employer, and in no instance shall the credit, if any, allowable by subsection
21 (2) of this section for any employee qualified thereunder be claimed more than once
22 for any taxable year.
- 23 (6) No credit shall be allowed under subsection (2) of this section to any organization
24 which is exempt from income tax by this chapter.
- 25 (7) In the case of a pass-through entity, the amount of the credit determined under this
26 section for any taxable year shall be applied at the entity level against the limited
27 liability entity tax imposed by KRS 141.0401 and shall also be apportioned pro rata

1 among the members, partners, or shareholders of the limited liability entity on the
 2 last day of the taxable year, and any person to whom an amount is so apportioned
 3 shall be allowed, subject to code Section 53, a credit under subsection (2) of this
 4 section for that amount.

5 (8) In the case of an estate or trust, the amount of the credit determined under this
 6 section for any taxable year shall be apportioned between the estate or trust and the
 7 beneficiaries on the basis of income of the estate or trust allocable to each, and any
 8 beneficiary to whom any amount has been apportioned under this subsection shall
 9 be allowed, subject to code Section 53, a credit under subsection (2) of this section
 10 for that amount.

11 (9) In no event shall the credit allowed, pursuant to this section, for any taxable year
 12 exceed the tax liability of the taxpayer for the taxable year.

13 ➔Section 12. KRS 148.562 is amended to read as follows:

14 (1) The authority shall be governed by a board of directors consisting of thirteen (13)
 15 members as follows:

- 16 (a) Secretary of the Commerce Cabinet, or his or her designee;
- 17 (b) Secretary of the Transportation Cabinet, or his or her designee;
- 18 (c) Secretary of the Education and Workforce Development Cabinet, or his or her
 19 designee;
- 20 (d) Secretary of the Finance and Administration Cabinet, or his or her designee;
- 21 (e) Three (3) members appointed by the Governor, one (1) to be a representative
 22 of the Kentucky Arts Council, and two (2) to be at-large members; and
- 23 (f) Six (6) members appointed by the mayor of the city of Berea to include two
 24 (2) representatives of Berea city government, two (2) representatives of Berea
 25 College recommended by the president of Berea College, one (1)
 26 representative of Eastern Kentucky University recommended by the president
 27 of Eastern Kentucky University, and one (1) at-large member.

- 1 (2) Members shall serve for staggered terms of four (4) years beginning August 1,
 2 2000, except that of the initial appointments:
- 3 (a) One (1) appointment by the Governor and two (2) appointments by the mayor
 4 of the city of Berea shall each serve a term of four (4) years;
- 5 (b) Two (2) appointments by the mayor of the city of Berea and one (1)
 6 appointment by the Governor shall each serve a term of three (3) years;
- 7 (c) One (1) appointment by the Governor and one (1) appointment by the mayor
 8 of the city of Berea shall each serve a term of two (2) years; and
- 9 (d) One (1) appointment by the mayor of the city of Berea shall serve a term of
 10 one (1) year.
- 11 (3) The Governor shall appoint a chair from among the members of the board.
- 12 (4) A quorum of the board shall consist of seven (7) members, with a majority of
 13 members present authorized to act upon any matter legally before the authority.
- 14 (5) A member may be removed by the appointing authority only for neglect of duty,
 15 misfeasance, or malfeasance, and after being afforded an opportunity for a hearing
 16 in accordance with KRS Chapter 13B, relating to administrative hearings.
- 17 ➔Section 13. KRS 151B.020 is amended to read as follows:
- 18 (1) The Education *and Workforce Development* Cabinet is hereby created, which shall
 19 constitute a cabinet of the state government within the meaning of KRS Chapter 12.
 20 The cabinet shall consist of a secretary and those administrative bodies and
 21 employees as provided by law.
- 22 (2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the
 23 major organizational units listed below, units listed in KRS 12.020, and other
 24 departments, divisions, and sections as are from time to time deemed necessary for
 25 the proper and efficient operation of the cabinet:
- 26 (a) The Department of Workforce Investment, which is hereby created and
 27 established within the Education *and Workforce Development* Cabinet. The

1 department shall be directed and managed by a commissioner who shall be
 2 appointed by the Governor under the provisions of KRS 12.040, and who shall
 3 report to the secretary of the Education and Workforce Development Cabinet.

4 The department shall be composed of the following offices:

- 5 1. The Office of Career and Technical Education, which is created by KRS
 6 151B.025;
- 7 2. The Office of Vocational Rehabilitation, which is created by KRS
 8 151B.185;
- 9 3. The Office for the Blind established by KRS 163.470; and
- 10 4. The Office of Employment and Training, which is created by KRS
 11 151B.280;

12 (b) The Kentucky Technical Education Personnel Board established in KRS
 13 151B.097; and

14 (c) The Unemployment Insurance Commission established by KRS 341.110.

15 (3) The executive officer of the cabinet shall be the secretary of the Education and
 16 Workforce Development Cabinet. The secretary shall be appointed by the Governor
 17 pursuant to KRS 12.255 and shall serve at the pleasure of the Governor. The
 18 secretary shall have general supervision and direction over all activities and
 19 functions of the cabinet and its employees and shall be responsible for carrying out
 20 the programs and policies of the cabinet. The secretary shall be the chief executive
 21 officer of the cabinet and shall have authority to enter into contracts, subject to the
 22 approval of the secretary of the Finance and Administration Cabinet, when the
 23 contracts are deemed necessary to implement and carry out the programs of the
 24 cabinet. The secretary shall have the authority to require coordination and
 25 nonduplication of services provided under the Federal Workforce Investment Act of
 26 1998, 20 U.S.C. secs. 9201 et seq. The secretary shall have the authority to mandate
 27 fiscal responsibility dispute resolution procedures among state organizational units

1 for services provided under the Federal Workforce Investment Act of 1998, 20
 2 U.S.C. secs. 9201 et seq.

3 (4) The secretary of the Education and Workforce Development Cabinet and the
 4 secretary's designated representatives, in the discharge of the duties of the secretary,
 5 may administer oaths and affirmations, take depositions, certify official acts, and
 6 issue subpoenas to compel the attendance of witnesses and production of books,
 7 papers, correspondence, memoranda, and other records considered necessary and
 8 relevant as evidence at hearings held in connection with the administration of the
 9 cabinet.

10 (5) The secretary of the Education and Workforce Development Cabinet may delegate
 11 any duties of the secretary's office to employees of the cabinet as he or she deems
 12 necessary and appropriate, unless otherwise prohibited by statute.

13 (6) The secretary of the Education and Workforce Development Cabinet shall
 14 promulgate, administer, and enforce administrative regulations that are necessary to
 15 implement programs mandated by federal law, or to qualify for the receipt of federal
 16 funds, and that are necessary to cooperate with other state and federal agencies for
 17 the proper administration of the cabinet and its programs except for programs and
 18 federal funds within the authority of the Council on Postsecondary Education, the
 19 Department of Education, the Kentucky Board of Education, and the Education
 20 Professional Standards Board.

21 ➔Section 14. KRS 151B.025 is amended to read as follows:

22 (1) The Office of Career and Technical Education is hereby created within the
 23 Education and Workforce Development Cabinet. The office shall consist of an
 24 executive director and those administrative bodies and employees provided by or
 25 appointed pursuant to law.

26 (2) The chief executive officer of the office shall be the executive director of the Office
 27 of Career and Technical Education. The executive director shall be appointed to the

1 unclassified service by the secretary of the Education and Workforce Development
2 Cabinet with the approval of the Governor pursuant to KRS 12.050. The executive
3 director shall have general supervision and direction over all functions of the office
4 and its employees, and shall be responsible for carrying out the programs and
5 policies of the office. The executive director may delegate authority to deputies who
6 may then act on his or her behalf in performing the duties assigned in this
7 subsection.

8 (3) The office shall have the responsibility for all administrative functions of the state
9 in relation to the management, control, and operation of state-operated secondary
10 area vocational education and technology centers. When appropriate, the office shall
11 provide education training programs through contracts with private business and
12 industries. These programs may be on a shared cost basis or on a total cost recovery
13 basis.

14 (4) The executive director of the Office of Career and Technical Education shall have
15 the authority to enter into agreements or contracts with other government or
16 education agencies, including local school districts, in order to carry out services
17 under the office's jurisdiction.

18 (5) Secondary area vocational education and technology centers shall be operated in
19 compliance with program standards established by the Kentucky Board of
20 Education. Principals, counselors, and teaching staff shall meet the qualifications
21 and certification standards for all secondary vocational personnel as established by
22 the Educational Professional Standards Board. In addition to direct appropriations,
23 funds appropriated to support the cost of operating area vocational education and
24 technology centers shall be transferred annually from the secondary funds
25 administered by the Kentucky Department of Education for that purpose.

26 (6) The Office of Career and Technical Education, in the operation and management of
27 its schools and the programs at those schools, shall meet all required federal and

1 state standards relating to facilities and personnel qualification; provided, however,
2 that no license or license fee shall be required for any school or program operated
3 by the Office of Career and Technical Education.

4 (7) (a) The Office of Career and Technical Education shall be the education agency
5 solely designated for the purpose of developing and approving state plans
6 required by state or federal laws and regulations as prerequisites to receiving
7 federal funds for vocational-technical or technology education. The office
8 shall involve representatives from all eligible recipient categories in the
9 development of the required plans.

10 (b) In accordance with 20 U.S.C. sec. 2302(9), the Kentucky Workforce
11 Investment Board is hereby designated to be the "eligible agency" that is the
12 sole state agency responsible for the administration of vocational and
13 technical education and the supervision of the administration of vocational
14 and technical education.

15 (8) Except for the duties that the Workforce Investment Board must retain pursuant to
16 20 U.S.C. sec. 2341, the Kentucky Workforce Investment Board shall be authorized
17 to delegate all of the other duties and responsibilities of the eligible agency to the
18 Office of Career and Technical Education within the Education and Workforce
19 Development Cabinet, including but not limited to the administration, operation,
20 and supervision of the Perkins program and the authority to receive, hold, and
21 disburse funds awarded under the state plan.

22 (9) The office shall be permitted to enter into memorandums of agreement with
23 individuals on a year-to-year basis to fill positions in hard-to-find teaching
24 specialties. The agreements and compensation for hard-to-find teaching specialties
25 shall be approved by the executive director and shall not be subject to the provisions
26 of KRS Chapter 45A. All agreements shall be filed with the secretary of the Finance
27 and Administration Cabinet.

1 (10) The executive director of the Office of Career and Technical Education shall, from
 2 time to time, prepare or cause to be prepared any bulletins, programs, outlines of
 3 courses, placards, and courses of study deemed useful in the promotion of the
 4 interests of technical and vocational education.

5 (11) The executive director of the Office of Career and Technical Education shall be
 6 responsible for the preparation of a biennial budget request, which shall be
 7 forwarded to the executive director of the Office of Budget and Administration
 8 within the Education and Workforce Development Cabinet for preliminary review
 9 and approval. Final approval shall be given by the secretary of the Education and
 10 Workforce Development Cabinet or his or her designee.

11 ➔Section 15. KRS 151B.030 is amended to read as follows:

12 The Office of Career and Technical Education shall have the following organizational
 13 structure:

14 (1) The secretary of the Education and Workforce Development Cabinet shall appoint
 15 an executive director of career and technical education pursuant to KRS 12.050 and
 16 assign duties as appropriate;

17 (2) There is hereby created a Division of Secondary Education and Technical Training
 18 within the Office of Career and Technical Education. The division shall be headed
 19 by a director appointed by the secretary of the Education and Workforce
 20 Development Cabinet under KRS 12.050. The division shall be composed of
 21 organizational entities as deemed appropriate by the secretary of the Education and
 22 Workforce Development Cabinet;

23 (3) The appointing authority shall appoint an ombudsman pursuant to KRS 12.050 and
 24 specify his or her functions and duties; and

25 (4) The Kentucky Technical Education Personnel Board, pursuant to KRS 151B.097,
 26 shall be attached to the Office of Career and Technical Education for administrative
 27 purposes.

1 ➔Section 16. KRS 151B.045 is amended to read as follows:

2 (1) The records of the Office of Career and Technical Education shall be public records
3 and shall be open to public inspection, as provided in KRS 61.870 to 61.884.

4 (2) (a) A personnel file shall be maintained by the Education and Workforce
5 Development Cabinet for each employee. The files maintained by the
6 Education and Workforce Development Cabinet shall be the official
7 personnel file for the employees.

8 (b) Each file shall include but not be limited to the employee's name, address, title
9 of positions held, classifications, rates of compensation, all changes in status
10 including evaluations, promotions, demotions, layoffs, transfers, disciplinary
11 actions, commendations, and awards. Each file shall contain the complete
12 record and supporting documentation for each personnel action.

13 (c) When an employee is reprimanded for misconduct, other infraction, or failure
14 to perform duties in a proper or adequate manner, the supervising employee
15 taking the action shall document the action in detail, and shall provide the
16 employee with a copy of the documentation. The supervising employee shall
17 inform the employee of his or her right to prepare a written response to the
18 action taken after the employee has reviewed the written documentation
19 prepared by the supervising employee. The employee's response shall be
20 attached to the documentation prepared by the supervising employee. The
21 supervising employee shall place a copy of the documentation and response in
22 the employee's personnel file and shall transmit a copy to be placed in the
23 central office personnel file of the employee. The supervising employee shall
24 notify the employee that copies of the documentation and the response
25 provided for in this subsection have been placed in the employee's personnel
26 files.

27 (3) Upon written request, an employee shall have the right to examine his or her

1 personnel file. An employee may comment in writing on any item in the file. The
 2 comments shall be made a part of the file and shall be attached to the specific record
 3 or document to which they pertain.

4 (4) No public agency, as defined by KRS 61.870, and no officer or employee shall
 5 deny, abridge, or impede the exercise of the rights granted in any manner by this
 6 section and by KRS 61.878.

7 ➔Section 17. KRS 151B.097 is amended to read as follows:

8 (1) The Kentucky Technical Education Personnel Board is hereby established to
 9 conduct personnel appeals from certified and equivalent employees in the Office of
 10 Career and Technical Education under KRS Chapter 151B. Appeals shall be
 11 conducted in accordance with the provisions established in KRS Chapter 13B. The
 12 board shall be attached to the Office of Career and Technical Education for
 13 administrative purposes.

14 (2) The Kentucky Technical Education Personnel Board shall be composed of five (5)
 15 voting members, three (3) of whom shall be selected from employees of agencies
 16 within the Education and Workforce Development Cabinet, except no member
 17 shall be an employee within the Office of the Secretary or the Office of Career and
 18 Technical Education. The remaining two (2) members shall be teachers employed
 19 by the Office of Career and Technical Education's Area Technology Centers. The
 20 election of the teacher representatives may be conducted by written ballot, Internet
 21 balloting, intranet balloting, or electronic mail. The teacher candidates may be
 22 present when the balloting is tallied. All votes cast shall be tallied by an
 23 independent entity.

24 (a) The Governor shall appoint the two (2) members elected by the teachers
 25 employed by the Office of Career and Technical Education's Area Technology
 26 Centers and the three (3) members selected from employees of agencies
 27 within the Education and Workforce Development Cabinet. All members

shall be appointed by the Governor to four (4) year terms, and each term shall end on June 30 of the fourth year. Terms of new members or reappointed members shall begin on July 1 of the year beginning their term. If a vacancy occurs during a term, the Governor shall appoint a replacement to serve the remainder of the unexpired term within thirty (30) days of the vacancy. The Governor shall select a replacement from the group where the vacancy occurred. The manner of selection for the replacement shall be the same as the manner of the original selection.

(b) The members shall possess an understanding of the personnel system established in KRS Chapter 151B.

(c) A chair shall be elected annually by members of the board.

(3) The board shall meet as necessary to comply with time frames for conducting personnel appeals under KRS Chapter 13B and KRS Chapter 151B, and at other times as deemed necessary by the chair of the board. For meetings of the board, a majority of the voting members shall be present to constitute a quorum for the transaction of business.

(4) The Office of Career and Technical Education shall provide administrative, budgetary and support staff services for the board.

(5) Employees of the Education and Workforce Development Cabinet who serve as members of the board shall not receive additional salary for serving as members on the board. However, upon approval of the executive director of the Office of Career and Technical Education, board members shall be entitled to reimbursement of actual and necessary expenses incurred while performing their duties as an active member of the board.

(6) During personnel appeals conducted by the board, both parties shall be given the opportunity to have a representative present at each step of the process.

➔Section 18. KRS 151B.120 is amended to read as follows:

1 (1) The vice president of the Kentucky Adult Education Program in the Council on
 2 Postsecondary Education and the executive director of the Office of Career and
 3 Technical Education may enter into agreements to train workers for new
 4 manufacturing jobs in new or expanding industries characterized by one (1) or more
 5 of the following criteria: a high average skill, a high average wage, rapid national
 6 growth, or jobs feasible and desirable for location in rural regions. Such agreements
 7 shall be subject to review and approval by the secretary of the Education and
 8 Workforce Development Cabinet and shall not be subject to the requirements of
 9 KRS 45A.045 and KRS 45A.690 to 45A.725 when awarded on the basis of a
 10 detailed training plan approved by the appropriate agency head. Reimbursement to
 11 the industry shall be made upon submission of documents validating actual training
 12 expenditure not to exceed the amount approved by the training plan.

13 (2) The vice president and the executive director may approve authorization for his or
 14 her agency to enter into agreements with industries whereby the industry may be
 15 reimbursed directly for the following services:

- 16 (a) The cost of instructors' salaries when the instructor is an employee of the
 17 industry to be served;
- 18 (b) Cost of only those supplies, materials, and equipment used exclusively in the
 19 training program; and
- 20 (c) Cost of leasing a training facility should a vocational education school or the
 21 industrial plant not be available.

22 ➔Section 19. KRS 151B.130 is amended to read as follows:

23 (1) There is hereby established a nonprofit foundation to be known as the "Foundation
 24 for Adult Education." The purpose of the foundation shall be to supplement public
 25 funding for adult training in order to expand existing basic skills training programs.

26 (2) Funding for the foundation shall be obtained through contributions by the private
 27 sector. The foundation shall be empowered to solicit and accept funds from the

1 private sector to be used for grants to local education agencies to fund adult basic
 2 education programs especially designed for business and industry. Contributors may
 3 specify that contributed funds be used to improve the educational level of their
 4 employees as it relates to the GED instruction program.

5 (3) The foundation shall be governed by a board of trustees to be appointed by the
 6 secretary of the Education and Workforce Development Cabinet with responsibility
 7 for adult education programs based on recommendations from business, industry,
 8 labor, education, and interested citizens. Staff for the board of trustees shall be
 9 provided by the cabinet.

10 (4) The foundation shall be attached to the office of the president of the Council on
 11 Postsecondary Education for administrative purposes.

12 ➔Section 20. KRS 151B.155 is amended to read as follows:

13 The State Treasurer is custodian of all money received by the state from the federal
 14 government under the federal acts accepted by KRS 151B.145, and the State Treasurer
 15 shall collect the money and pay it out upon the order of the secretary of the Education and
 16 Workforce Development Cabinet.

17 ➔Section 21. KRS 151B.185 is amended to read as follows:

18 (1) The Office of Vocational Rehabilitation is hereby created within the Education and
 19 Workforce Development Cabinet, Department of Workforce Investment. The office
 20 shall consist of an executive director and those administrative bodies and employees
 21 provided or appointed pursuant to law. The office shall be composed of the
 22 Division of Program Services and the Division of the Carl D. Perkins Vocational
 23 Training Center. Each division shall be headed by a director appointed by the
 24 secretary of the Education and Workforce Development Cabinet under the
 25 provisions of KRS 12.050, and shall be composed of organizational entities as
 26 deemed appropriate by the secretary of the Education and Workforce Development
 27 Cabinet.

- 1 (2) The Office of Vocational Rehabilitation shall have such powers and duties as
 2 contained in KRS 151B.180 to 151B.210 and such other functions as may be
 3 established by administrative regulation.
- 4 (3) The office shall be the sole state agency for the purpose of developing and
 5 approving state plans required by state or federal laws and regulations as
 6 prerequisites to receiving federal funds for vocational rehabilitation.
- 7 (4) The chief executive officer of the office shall be the executive director of the Office
 8 of Vocational Rehabilitation. The executive director shall be appointed by the
 9 secretary of the Education and Workforce Development Cabinet under the
 10 provisions of KRS 12.050. The executive director shall have experience in
 11 vocational rehabilitation and supervision and shall have general supervision and
 12 direction over all functions of the office and its employees, and shall be responsible
 13 for carrying out the programs and policies of the office.
- 14 (5) Except as otherwise provided, the office shall be the state agency responsible for all
 15 rehabilitation services and for other services as deemed necessary. The office shall
 16 be the agency authorized to expend all state and federal funds designated for
 17 rehabilitation services. The Office of the Secretary of the Education and Workforce
 18 Development Cabinet is authorized as the state agency to receive all state and
 19 federal funds and gifts and bequests for the benefit of rehabilitation services.
- 20 (6) Employees under the jurisdiction of the Office of Vocational Rehabilitation who are
 21 members of a state retirement system as of June 30, 1990, shall remain in their
 22 respective retirement systems.
- 23 ➔Section 22. KRS 151B.225 is amended to read as follows:
- 24 (1) There is hereby created a Client Assistance Program which is assigned for
 25 administrative purposes to the Office of Legal and Legislative Services within the
 26 Education and Workforce Development Cabinet.
- 27 (2) The Client Assistance Program shall pursue legal, administrative, and other

1 appropriate remedies to ensure the protection of rights of individuals with
 2 disabilities who are receiving treatment, services, or rehabilitation under the
 3 Rehabilitation Act of 1973, as amended. If additional resources are required to
 4 perform the duties and responsibilities of the Client Assistance Program, the
 5 cabinet, on behalf of the Client Assistance Program, may contract with other state
 6 agencies to obtain necessary legal or other professional services.

7 (3) The Office of Legal and Legislative Services shall serve as the agency in charge of
 8 all personnel, equipment, records, files, and funds pertaining to the Client
 9 Assistance Program as provided for in the Rehabilitation Act of 1973, as amended.

10 ➔Section 23. KRS 151B.230 is amended to read as follows:

11 (1) There is hereby established a nonprofit foundation to be known as the "Foundation
 12 for Workforce Development." The purpose of the foundation shall be to supplement
 13 public funding for technical education programs in order to expand existing skills
 14 training programs.

15 (2) Funding for the foundation shall be obtained through contributions by the private
 16 sector. The foundation shall be empowered to solicit and accept funds from the
 17 private sector to be used to fund technical education programs especially designed
 18 for business and industry. Contributors may specify that contributed funds be used
 19 to improve the technical skill level of their employees.

20 (3) The foundation shall be governed by a board of trustees to be appointed by the
 21 secretary of the Education and Workforce Development Cabinet based on
 22 recommendations from business, industry, labor, education, and interested citizens.
 23 Staff assistance for the board of trustees shall be provided by the Office of Career
 24 and Technical Education.

25 (4) The foundation shall be attached to the Education and Workforce Development
 26 Cabinet for administrative purposes.

27 (5) The foundation shall report its finances consistent with statutes and regulations

promulgated by the Finance and Administration Cabinet. An annual report shall be made to the Interim Joint Committee on Appropriations and Revenue. This report shall follow generally accepted accounting procedures and shall include a detail reporting on all moneys acquired and expended.

➔Section 24. KRS 151B.250 is amended to read as follows:

(1) It is the intent of the General Assembly to create and support a School-to-Careers System that involves business, labor, education, and government to prepare students for careers in an ever-changing economy.

(2) The Office of Career and Technical Education within the Education and Workforce Development Cabinet shall coordinate the School-to-Work effort with the Kentucky Department of Education. As the School-to-Work effort is a federally supported program that fits within the overall mission of the School-to-Careers System, it is critical that collaboration and coordination occur. The following elements shall be coordinated when possible:

- (a) Planning and partner involvement of business, labor, education, government, community-based organizations, employers, parents, and students;
- (b) Career awareness, exploration, preparation, and guidance incorporated in the school curriculum;
- (c) A comprehensive system approach from the primary through postsecondary levels with all students having the opportunity to participate;
- (d) Applied learning experiences;
- (e) Integration of academic and occupational education;
- (f) Performance assessment;
- (g) Actual or simulated learning at the school or the worksite;
- (h) Curriculum based on skill standards representing all aspects of an industry;
- (i) Secondary to postsecondary articulation;
- (j) Postsecondary articulation; and

1 (k) Professional development opportunities for all partners.

2 (3) The Office of Career and Technical Education may promulgate administrative
3 regulations establishing policy for the development and implementation of a school-
4 to-work transition system.

5 (4) The Office of Career and Technical Education shall comply with the provisions of
6 the federal School-to-Work Opportunities Act, Pub.L. 103-239 as it is amended
7 from time to time.

8 ➔Section 25. KRS 151B.280 is amended to read as follows:

9 (1) The Office of Employment and Training is created and established within the
10 Department of Workforce Investment within the Education and Workforce
11 Development Cabinet. The Office of Employment and Training shall develop and
12 operate employment development and placement programs, including job
13 recruitment and business liaison functions, employability development and training
14 programs, and job counseling and placement programs of the cabinet. In addition,
15 the office shall develop and operate all programs relating to the unemployment
16 insurance laws of the Commonwealth, including responsibilities relating to hearing
17 and judging unemployment insurance benefit appeals.

18 (2) The Office of Employment and Training shall be headed by an executive director
19 appointed by the secretary with the approval of the Governor, in accordance with
20 KRS 12.050. The executive director for employment and training shall be a person
21 who, by experience and training in administration and management, is qualified to
22 perform the duties of the office. The executive director for employment and training
23 shall exercise authority over the Office of Employment and Training under the
24 direction of the commissioner of the Department of Workforce Investment, and
25 shall fulfill only the responsibilities delegated by the commissioner.

26 (3) (a) The secretary of the Education and Workforce Development Cabinet shall
27 develop and promulgate administrative regulations which protect the

1 confidential nature of all records and reports of the Office of Employment and
 2 Training which directly or indirectly identify a client or former client and
 3 which insure that these records are not disclosed to or by any person except
 4 and insofar as:

- 5 1. The person identified shall give his consent; or
- 6 2. Disclosure may be permitted under state or federal law.

7 (b) Notwithstanding any other state statute or administrative regulation to the
 8 contrary, any information concerning individual clients or applicants in the
 9 possession of the Office of Employment and Training may be shared with any
 10 authorized representative of any other state or local governmental agency, if
 11 the agency has a direct, tangible, and legitimate interest in the individual. The
 12 agency receiving the information shall assure the confidentiality of all
 13 information received. The Office of Employment and Training may share
 14 information concerning a client or applicant with any private or quasi-private
 15 agency if:

- 16 1. The agency has an agreement with the cabinet assuring the
 17 confidentiality of the information; and
- 18 2. The agency has a direct, tangible, and legitimate interest in the
 19 individual.

20 ➔Section 26. KRS 151B.285 is amended to read as follows:

21 The Education **and Workforce Development** Cabinet shall administer and supervise state
 22 employment offices and perform any other duties within the Act of Congress entitled "An
 23 Act to provide for the establishment of a National Employment Service and for
 24 Cooperation with the State in the Promotion of Such System and for Other Purposes,"
 25 approved June 6, 1933 (48 Stat. 113, U.S.C., Title 29, sec. 49(c)), as amended, and
 26 known as the Wagner-Peyser Act. All duties and powers relating to the establishment,
 27 maintenance, and operation of free public employment offices are vested in the Education

1 and Workforce Development Cabinet. The provisions of the Wagner-Peyser Act, as
 2 amended, are accepted by this state. in conformity with Section 4 of that Act, and this
 3 state will observe and comply with the requirements of that Act. The Education and
 4 Workforce Development Cabinet is designated and constituted the agency of this state for
 5 the purposes of the Wagner-Peyser Act.

6 ➔Section 27. KRS 151B.450 is amended to read as follows:

7 As used in KRS 151B.450 to 151B.475, unless the context requires otherwise:

- 8 (1) "Assistive technology" means any item, piece of equipment, or device that enables
 9 an individual with a disability to improve his or her independence and quality of
 10 life;
- 11 (2) "Board" means the board of directors of the Kentucky Assistive Technology Loan
 12 Corporation;
- 13 (3) "Cabinet" means the Education and Workforce Development Cabinet;
- 14 (4) "Corporation" means the Kentucky Assistive Technology Loan Corporation created
 15 under KRS 151B.455;
- 16 (5) "Fund" means the Kentucky assistive technology loan fund created under KRS
 17 151B.470;
- 18 (6) "Qualified borrower" means an individual with a disability that affects a major life
 19 activity such as mobility, sensory and cognitive communications, or self-care, a
 20 parent or legal guardian of an individual with a disability, or a nonprofit
 21 organization that provides assistive technology to individuals with disabilities who
 22 meet the criteria for participating in the Kentucky assistive technology loan fund;
 23 and
- 24 (7) "Qualified lender" means a financial lending institution or other qualified
 25 organization contracted with by the corporation to provide loans for the purchase of
 26 assistive technology.

27 ➔Section 28. KRS 151B.455 is amended to read as follows:

- 1 (1) The Kentucky Assistive Technology Loan Corporation is created and established as
- 2 an independent de jure municipal corporation and political subdivision of the
- 3 Commonwealth of Kentucky to perform essential governmental and public
- 4 functions for the purpose of improving the quality of life for disabled persons who
- 5 are residents of the Commonwealth of Kentucky by providing the ability to obtain
- 6 low-interest loans to qualified borrowers for the acquisition of assistive technology.
- 7 (2) The corporation shall be governed by a board of directors consisting of seven (7)
- 8 members as follows:
 - 9 (a) The secretary of the Education and Workforce Development Cabinet or the
 - 10 secretary's designated representative;
 - 11 (b) One (1) attorney with lending expertise;
 - 12 (c) One (1) representative of a financial lending institution; and
 - 13 (d) Four (4) public members with a knowledge of assistive technology
 - 14 representing a range of disabilities.
- 15 (3) All board members shall be residents of the Commonwealth of Kentucky and all,
- 16 with the exception of the secretary or the secretary's designee, shall be appointed by
- 17 the Governor. Each public member shall be an individual with a disability, a parent
- 18 of an individual with a disability, or a legal representative of an individual with a
- 19 disability. In making appointments the Governor shall seek recommendations from
- 20 disability-related associations and organizations representing the categories of
- 21 disabilities for which appointments are being made.
- 22 (4) For initial appointments to the board, two (2) public members shall be appointed for
- 23 terms of four (4) years each, two (2) public members for terms of three (3) years
- 24 each, the attorney member for a term of two (2) years, and the member representing
- 25 a financial lending institution for a term of one (1) year. All succeeding terms shall
- 26 be for a period of four (4) years each, and each appointee shall serve for the
- 27 appointed term and until a successor has been appointed and has duly qualified. No

1 person shall serve more than two (2) successive full terms.

2 (5) If a vacancy on the board occurs, the Governor shall appoint a replacement who
3 shall hold office during the remainder of the term vacated.

4 (6) The Governor may remove any board member in case of incompetency, neglect of
5 duties, gross immorality, or malfeasance in office, and may upon removal declare
6 the position vacant and appoint a person to fill the vacancy as provided in other
7 cases of vacancy. If a board member is so removed, he or she may appeal. Upon
8 appeal an administrative hearing shall be conducted in accordance with KRS
9 Chapter 13B.

10 ➔Section 29. KRS 151B.460 is amended to read as follows:

11 (1) At the first board meeting following initial appointment of all board members, the
12 board shall elect a chair from its membership, and a chair shall be elected annually
13 thereafter.

14 (2) A majority of the board of directors of the corporation shall constitute a quorum for
15 the purpose of conducting its business and exercising its powers and for all other
16 purposes, notwithstanding the existence of any vacancies on the board of directors.

17 (3) The board of directors shall meet at least once a quarter, and may meet at other
18 times upon call of the chair or at the request of a majority of board members, and
19 with a minimum of seven (7) days' notice.

20 (4) Board members shall receive no compensation for their services but may be entitled
21 to payment of any reasonable and necessary expense actually incurred in
22 discharging their duties under KRS 151B.450 to 151B.475, subject to the
23 availability of funding.

24 (5) If any board member has a direct or indirect interest in any qualified lender or any
25 organization serving as a qualified borrower, the interest shall be disclosed and set
26 forth in the minutes of the board, and the board member having the interest shall not
27 participate in any action involving the organization in which he or she has the

1 interest.

2 (6) The Education and Workforce Development Cabinet shall provide technical,
3 clerical, and administrative assistance to the board, together with necessary office
4 space and personnel, and shall provide any other services and support necessary for
5 the board to perform its functions. The cabinet shall keep a record of the
6 proceedings of the board and shall be custodian of all books, documents, and papers
7 which constitute the official records of the corporation. The board may enter into a
8 contract with the cabinet as may be proper and appropriate for the provision of these
9 services.

10 ➔Section 30. KRS 151B.470 is amended to read as follows:

11 (1) There is established in the State Treasury a permanent and perpetual fund to be
12 known as the assistive technology loan fund, consisting of moneys that may be
13 appropriated by the General Assembly, gifts, bequests, endowments, or grants from
14 the United States government, its agencies and instrumentalities, and any other
15 available sources of funds, public and private. Any fund balance at the close of a
16 fiscal year shall not lapse but shall be carried forward to the next fiscal year, and
17 moneys in the fund shall be continuously appropriated only for the purposes
18 specified in this section. Interest and income earned from the investment of funds
19 shall remain in the fund and be credited to it.

20 (2) The fund shall be used to provide loans to qualified borrowers within the
21 Commonwealth for the purpose of acquiring assistive technology designed to help
22 individuals with disabilities become more independent. Loans shall be made to
23 qualified borrowers through qualified lenders with the fund being used as
24 appropriate to negotiate reduced interest rates, to buy down interest rates, and to
25 provide loan guarantees.

26 (3) The fund shall be under the administrative control of the board.

27 (4) If the corporation is dissolved, any unencumbered moneys appropriated by the

General Assembly remaining in the fund shall revert to the general fund, and any other unencumbered moneys shall be transferred to the Education and Workforce Development Cabinet to be expended for programs and services for Kentuckians with disabilities.

➔Section 31. KRS 154.10-050 is amended to read as follows:

- (1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.
- (2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.
- (3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.
- (4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.
- (5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.
- (6) The secretary shall, in carrying out the duties and responsibilities of the office and

1 in administering the programs in KRS 154.12-216 to 154.12-278, give highest
 2 priority consideration in marketing, targeting, and recruiting new businesses, in
 3 expanding existing businesses, and in recommending state economic development
 4 loans, grants, and incentive programs administered by the authority, to Kentucky
 5 counties which have had an average countywide rate of unemployment of fifteen
 6 percent (15%) or greater in the most recent twelve (12) consecutive months for
 7 which unemployment figures are available, on the basis of the final unemployment
 8 figures calculated by the Office of Employment and Training within the Department
 9 of Workforce Investment within the Education and Workforce Development
 10 Cabinet.

11 ➔Section 32. KRS 154.12-205 is amended to read as follows:

- 12 (1) There is hereby created an independent, de jure corporation of the Commonwealth
 13 with all the general corporate powers incidental thereto which shall be known as the
 14 "Bluegrass State Skills Corporation." The corporation shall be a political
 15 subdivision of the state and shall be attached to the Cabinet for Economic
 16 Development.
- 17 (2) The corporation is created and established to improve and promote the employment
 18 opportunities of the citizens of the Commonwealth by creating and expanding
 19 programs of skills training and education which meet the needs of business and
 20 industry.
- 21 (3) The corporation shall be governed by a board of directors consisting of eighteen
 22 (18) members, including the following six (6) ex officio members: the
 23 commissioner of the Department of Workforce Investment or his or her designee,
 24 the secretary of the Cabinet for Economic Development, the commissioner of the
 25 Department of Labor, the president of the Council on Postsecondary Education, the
 26 secretary of the Education and Workforce Development Cabinet, and the president
 27 of the Kentucky Community and Technical College System. The twelve (12) other

1 members shall be appointed by the Governor, including persons having knowledge
2 and experience in business and industry, skills training, education, and minority
3 employment; and at least one (1) of the twelve (12) members shall be appointed to
4 represent labor organizations. Each member appointed by the Governor shall serve
5 for a term of four (4) years, except that in making the initial appointments, the
6 Governor shall appoint three (3) members to serve for one (1) year, three (3)
7 members to serve for two (2) years, three (3) members to serve for three (3) years,
8 and three (3) members to serve for four (4) years. All succeeding appointments shall
9 be for a term of four (4) years.

10 (4) In the event of a vacancy, the Governor may appoint a replacement member who
11 shall hold office during the remainder of the term so vacated.

12 (5) Any member may be removed from his appointment by the Governor for cause.

13 (6) The Governor shall designate a member of the board as its chairman.

14 (7) Members of the board of directors of the corporation, except for ex officio
15 members, shall be entitled to compensation for their services in the amount of one
16 hundred dollars (\$100) for each regular or special called meeting of the corporation,
17 and all members shall be entitled to reimbursement for any actual and necessary
18 expenses incurred in the performance of their duties.

19 (8) The board of directors of the corporation shall annually elect a vice chairman, a
20 secretary, and a treasurer. The secretary shall keep a record of the proceedings of the
21 corporation and shall be custodian of all books, documents, and papers filed with
22 the corporation, and its official seal.

23 (9) The secretary of the Cabinet for Economic Development shall hire an executive
24 director and establish his salary. The executive director shall be the chief
25 administrative and operational officer of the corporation and shall direct and
26 supervise its administrative affairs and general management subject to the policies,
27 control, and direction of the board.

1 (10) All officers and employees of the corporation having access to its funding shall give
2 bond to the corporation, at its expense, in the amount and with the surety as the
3 board may prescribe.

4 ➔Section 33. KRS 154.12-207 is amended to read as follows:

5 (1) The corporation may, subject to appropriation from the General Assembly or from
6 funds made available to the corporation from any other public or private source,
7 provide grants-in-aid to educational institutions, and business and industry, not in
8 excess of two hundred thousand dollars (\$200,000) per grant-in-aid. Such grants-in-
9 aid shall be used exclusively for programs which are consistent with the provisions
10 of this chapter.

11 (2) To qualify for a grant-in-aid in which an educational institution will provide
12 training, an educational institution and a business or industry shall submit a joint
13 application to the corporation that contains a proposal for a program of skills
14 training and education; a description of the program; the type of skills training or
15 education to be provided; a statement of the total cost of the program and
16 breakdown of the costs associated with equipment, personnel, facilities, and
17 materials; and with respect to educational institutions only, a statement of the
18 technical assistance and financial support for the program received or pledged from
19 business and industry. To qualify for a grant-in-aid in which a provider other than
20 an educational institution will provide training, the business or industry may
21 independently submit a proposal to the corporation containing the same information
22 as set forth in this subsection.

23 (3) Approval of the grant-in-aid application by the board shall be based upon the
24 following criteria:

25 (a) The program must be within the scope of KRS 154.12-204 to 154.12-208;

26 (b) Participants in the program must be limited to a Kentucky resident, as the term
27 is defined in KRS 141.010;

- 1 (c) The program must involve an area of skills training and education which is
- 2 needed by business and industry and for which a shortage of qualified
- 3 individuals exists within the Commonwealth;
- 4 (d) The grant-in-aid must be essential to the success of the program as the
- 5 resources of the educational institution are inadequate to attract the technical
- 6 assistance and financial support necessary from business and industry;
- 7 (e) The educational institution must have obtained a firm commitment from
- 8 business and industry for the information, technical assistance, and financial
- 9 support which, together with the grant-in-aid, the resources of the applicant,
- 10 and support from any other source, is sufficient to ensure the success of the
- 11 program. In addition, the commitment of financial support from business and
- 12 industry shall be equal to or greater than the amount of the requested grant-in-
- 13 aid;
- 14 (f) The educational institution must have established adequate auditing
- 15 procedures and reporting methods for the submission of information and data
- 16 as required by the corporation; and
- 17 (g) Ninety percent (90%) of the participants receive a base hourly wage which is
- 18 one hundred fifty percent (150%) of the federal minimum wage plus employee
- 19 benefits equal to at least fifteen percent (15%) of the applicable base hourly
- 20 wage, if the business and industry is located in a county of Kentucky which
- 21 has had an average countywide rate of unemployment of fifteen percent (15%)
- 22 or greater in the most recent twelve (12) consecutive months for which
- 23 unemployment figures are available, on the basis of the final unemployment
- 24 figures calculated by the Office of Employment and Training within the
- 25 Department of Workforce Investment within the Education and Workforce
- 26 Development Cabinet.

27 ➔ Section 34. KRS 154.12-2084 is amended to read as follows:

1 As used in KRS 154.12-2084 to 154.12-2089, unless the context requires otherwise:

2 (1) "Approved company" means any qualified company seeking to sponsor an
3 occupational upgrade training program or skills upgrade training program for the
4 benefit of one (1) or more of its employees, which is approved by the authority to
5 receive skills training investment credits in accordance with KRS 154.12-2084 to
6 154.12-2089;

7 (2) "Approved costs" means:

8 (a) Fees or salaries required to be paid to instructors who are employees of the
9 approved company, instructors who are full-time, part-time, or adjunct
10 instructors with an educational institution, and instructors who are consultants
11 on contract with an approved company in connection with an occupational
12 upgrade training program or skills upgrade training program sponsored by an
13 approved company;

14 (b) Administrative fees charged by educational institutions in connection with an
15 occupational upgrade training program or skills upgrade training program
16 sponsored by an approved company and specifically approved by the
17 Bluegrass State Skills Corporation;

18 (c) The cost of supplies, materials, and equipment used exclusively in an
19 occupational upgrade training program or skills upgrade training program
20 sponsored by an approved company;

21 (d) The cost of leasing a training facility where space is unavailable at an
22 educational institution or at the premises of an approved company in
23 connection with an occupational upgrade training program or skills upgrade
24 training program sponsored by an approved company;

25 (e) Employee wages to be paid in connection with an occupational upgrade
26 training program or skills upgrade training program sponsored by an approved
27 company; and

- 1 (f) All other costs of a nature comparable to those described in this subsection;
- 2 (3) "Bluegrass State Skills Corporation" means the Bluegrass State Skills Corporation
3 created by KRS 154.12-205;
- 4 (4) "Commonwealth" means the Commonwealth of Kentucky;
- 5 (5) "Educational institution" means a public or nonpublic secondary or postsecondary
6 institution or an independent provider within the Commonwealth authorized by law
7 to provide a program of skills training or education beyond the secondary school
8 level or to adult persons without a high school diploma or its equivalent;
- 9 (6) "Employee" means any person:
- 10 (a) Who is currently a permanent full-time employee of the qualified company;
- 11 (b) Who has been employed by the qualified company for the last twelve (12)
12 calendar months immediately preceding the filing of the application for skills
13 training investment credits by the qualified company;
- 14 (c) Who is a Kentucky resident, as that term is defined in KRS 141.010; and
- 15 (d) Who receives a base hourly wage which is one hundred fifty percent (150%)
16 of the federal minimum wage plus employee benefits equal to at least fifteen
17 percent (15%) of the applicable base hourly wage, if the qualified company is
18 located in a county of Kentucky which has had an average countywide rate of
19 unemployment of fifteen percent (15%) or greater in the most recent twelve
20 (12) consecutive months for which unemployment figures are available, on the
21 basis of the final unemployment figures calculated by the Office of
22 Employment and Training within the Department of Workforce Investment in
23 the Education and Workforce Development Cabinet.
- 24 For purposes of this subsection, a "full-time employee" means an employee who has
25 been employed by the qualified company for a minimum of thirty-five (35) hours
26 per week for more than two hundred fifty (250) work days during the most recently
27 ended calendar year and is subject to the tax imposed by KRS 141.020;

- 1 (7) "Occupational upgrade training" means employee training sponsored by a qualified
2 company that is designed to qualify the employee for a promotional opportunity
3 with the qualified company;
- 4 (8) "Preliminarily approved company" means a qualified company seeking to sponsor
5 an occupational upgrade training program or skills upgrade training program, which
6 has received preliminarily approval from the authority under KRS 154.12-2088 to
7 receive a certain maximum amount of skills training investment credits;
- 8 (9) "Qualified company" means any person, corporation, limited liability company,
9 partnership, limited partnership, sole proprietorship, firm, enterprise, franchise,
10 association, organization, holding company, joint stock company, professional
11 service corporation, or any other legal entity through which business is conducted
12 that has been actively engaged in any of the following qualified activities within the
13 Commonwealth for not less than three (3) consecutive years: manufacturing,
14 including the processing, assembling, production, or warehousing of any property;
15 processing of agricultural and forestry products; telecommunications; health care;
16 product research and engineering; tool and die and machine technology; mining;
17 tourism and operation of facilities to be used in the entertainment, recreation, and
18 convention industry; and transportation in support of manufacturing.
19 Notwithstanding the provisions of this subsection, any company whose primary
20 purpose is the sale of goods at retail shall not constitute a qualified company;
- 21 (10) "Skills upgrade training" means employee training sponsored by a qualified
22 company that is designed to provide the employee with new skills necessary to
23 enhance productivity, improve performance, or retain employment, including but
24 not limited to technical and interpersonal skills training, and training that is
25 designed to enhance the computer skills, communication skills, problem solving,
26 reading, writing, or math skills of employees who are unable to function effectively
27 on the job due to deficiencies in these areas, are unable to advance on the job, or

1 who risk displacement because their skill deficiencies inhibit their training potential
 2 for new technology; and

3 (11) "Skills training investment credit" means the credit against Kentucky income tax
 4 imposed by KRS 141.020 or 141.040, and the limited liability entity tax imposed by
 5 KRS 141.0401, as provided in KRS 154.12-2086(1).

6 ➔Section 35. KRS 154.20-150 is amended to read as follows:

7 (1) On or before October 1, 1992, and on or before the first day of every third month
 8 thereafter, the authority shall provide a written project status report to the
 9 Legislative Research Commission, and the authority shall be compelled to send a
 10 representative to testify on the project status report and the authority shall provide
 11 additional information on any projects upon request by the Legislative Research
 12 Commission. The written project status report shall include but is not limited to:

13 (a) The current status of each project under consideration by the authority, the
 14 proposed cost of a project, for each project under consideration, including any
 15 proposed financial obligations of the authority, the number of jobs to be
 16 created or retained by each project under consideration, and a description of
 17 the applicants with respect to each project under consideration; and

18 (b) The current status of each project, along with an updated cost for each project
 19 in progress, including any financial obligations of the authority and a
 20 description of the principals with respect to each project in progress.

21 (2) On or before the first day of each fiscal year, the authority shall submit an overview
 22 report to the Legislative Research Commission, on the success or failure of each
 23 completed project, in order to determine the effectiveness of the Kentucky
 24 Economic Development Finance Authority.

25 (3) In addition to the project status report, all construction, reconstruction, or alteration,
 26 financed or facilitated in whole or in part by the authority shall be reported to the
 27 Office of Employment and Training within the Department of Workforce

Investment in the Education and Workforce Development Cabinet and to the Kentucky Legislative Research Commission not later than fifteen (15) days following the end of the month in which the agreement or contract facilitating or permitting such activity was executed. This construction activity report shall be subject to public information requests as provided by KRS 61.878. Reports shall list subject construction activity by location of project site, and shall specify the type of construction, project owner, estimated cost of project, and estimated starting and completion dates if known.

➔Section 36. KRS 154.20-170 is amended to read as follows:

- (1) Industrial entities, agricultural business entities, business enterprises, or private sector firms which are members of a business network within the meaning of KRS 154.01-010 in a targeted industrial sector as set forth in the state strategic plan for economic development as prescribed in KRS 154.10-120, and businesses that compose the secondary wood products industry as defined in KRS 154.47-005(10), shall be given priority consideration under state economic development loan, grant, and incentive programs administered by the Kentucky Economic Development Finance Authority.
- (2) Notwithstanding the provisions of subsection (1) of this section, highest priority consideration under state economic development loan, grant, and incentive programs administered by the authority shall be given to those projects that are located in counties of Kentucky which have had an average countywide rate of unemployment of fifteen percent (15%) or greater in the most recent twelve (12) consecutive months for which unemployment figures are available, on the basis of the final unemployment figures calculated by the Office of Employment and Training within the Department of Workforce Investment in the Education and Workforce Development Cabinet.

➔Section 37. KRS 154.22-010 is amended to read as follows:

1 The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the
 2 context clearly indicates a different meaning, shall have the following meanings:

3 (1) "Activation date" means a date selected by an approved company in the tax
 4 incentive agreement at any time within a two (2) year period after the date of final
 5 approval of the tax incentive agreement by the authority;

6 (2) "Affiliate" means the following:

7 (a) Members of a family, including only brothers and sisters of the whole or half
 8 blood, spouse, ancestors, and lineal descendants of an individual;

9 (b) An individual, and a corporation more than fifty percent (50%) in value of the
 10 outstanding stock of which is owned, directly or indirectly, by or for that
 11 individual;

12 (c) An individual, and a limited liability company of which more than fifty
 13 percent (50%) of the capital interest or profits are owned or controlled,
 14 directly or indirectly, by or for that individual;

15 (d) Two (2) corporations which are members of the same controlled group, which
 16 includes and is limited to:

17 1. One (1) or more chains of corporations connected through stock
 18 ownership with a common parent corporation, if:

19 a. Stock possessing more than fifty percent (50%) of the total
 20 combined voting power of all classes of stock entitled to vote or
 21 more than fifty percent (50%) of the total value of shares of all
 22 classes of stock of each of the corporations, except the common
 23 parent corporation, is owned by one (1) or more of the other
 24 corporations; and

25 b. The common parent corporation owns stock possessing more than
 26 fifty percent (50%) of the total combined voting power of all
 27 classes of stock entitled to vote or more than fifty percent (50%) of

1 the total value of shares of all classes of stock of at least one (1) of
 2 the other corporations, excluding, in computing the voting power
 3 or value, stock owned directly by the other corporations; or

4 2. Two (2) or more corporations, if five (5) or fewer persons who are
 5 individuals, estates, or trusts own stock possessing more than fifty
 6 percent (50%) of the total combined voting power of all classes of stock
 7 entitled to vote or more than fifty percent (50%) of the total value of
 8 shares of all classes of stock of each corporation, taking into account the
 9 stock ownership of each person only to the extent the stock ownership is
 10 identical with respect to each corporation;

11 (e) A grantor and a fiduciary of any trust;

12 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
 13 grantor of both trusts;

14 (g) A fiduciary of a trust and a beneficiary of that trust;

15 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
 16 grantor of both trusts;

17 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value
 18 of the outstanding stock of which is owned, directly or indirectly, by or for the
 19 trust or by or for a person who is a grantor of the trust;

20 (j) A fiduciary of a trust and a limited liability company more than fifty percent
 21 (50%) of the capital interest, or the interest in profits, of which is owned
 22 directly or indirectly, by or for the trust or by or for a person who is a grantor
 23 of the trust;

24 (k) A corporation, a partnership, and a limited partnership, if the same persons
 25 own:

26 1. More than fifty percent (50%) in value of the outstanding stock of the
 27 corporation; and

- 1 2. More than fifty percent (50%) of the capital interest, or the profits
- 2 interest, in the partnership or limited partnership;
- 3 (l) A corporation and a limited liability company, if the same persons own:
- 4 1. More than fifty percent (50%) in value of the outstanding stock of the
- 5 corporation; and
- 6 2. More than fifty percent (50%) of the capital interest or the profits in the
- 7 limited liability company;
- 8 (m) A partnership, limited partnership, and a limited liability company, if the same
- 9 persons own:
- 10 1. More than fifty percent (50%) of the capital interest or profits in the
- 11 partnership or limited partnership; and
- 12 2. More than fifty percent (50%) of the capital interest or the profits in the
- 13 limited liability company;
- 14 (n) An S corporation and another S corporation, if the same persons own more
- 15 than fifty percent (50%) in value of the outstanding stock of each corporation,
- 16 S corporation designation being the same as that designation under the
- 17 Internal Revenue Code of 1986, as amended; or
- 18 (o) An S corporation and a C corporation, if the same persons own more than fifty
- 19 percent (50%) in value of the outstanding stock of each corporation; S and C
- 20 corporation designations being the same as those designations under the
- 21 Internal Revenue Code of 1986, as amended;
- 22 (3) "Agribusiness" means any activity involving the processing of raw agricultural
- 23 products, including timber, or the providing of value-added functions with regard to
- 24 raw agricultural products;
- 25 (4) "Approved company" means any eligible company seeking to locate an economic
- 26 development project in a qualified county, which eligible company is approved by
- 27 the authority pursuant to KRS 154.22-010 to 154.22-080;

- 1 (5) "Approved costs" means:
- 2 (a) Obligations incurred for labor and to contractors, subcontractors, builders, and
- 3 materialmen in connection with the acquisition, construction, installation,
- 4 equipping, and rehabilitation of an economic development project;
- 5 (b) The cost of acquiring land or rights in land and any cost incidental thereto,
- 6 including recording fees;
- 7 (c) The cost of contract bonds and of insurance of all kinds that may be required
- 8 or necessary during the course of acquisition, construction, installation,
- 9 equipping, and rehabilitation of an economic development project which is
- 10 not paid by the contractor or contractors or otherwise provided for;
- 11 (d) All costs of architectural and engineering services, including test borings,
- 12 surveys, estimates, plans and specifications, preliminary investigations, and
- 13 supervision of construction, as well as for the performance of all the duties
- 14 required by or consequent upon the acquisition, construction, installation,
- 15 equipping, and rehabilitation of an economic development project;
- 16 (e) All costs which shall be required to be paid under the terms of any contract or
- 17 contracts for the acquisition, construction, installation, equipping, and
- 18 rehabilitation of an economic development project; and
- 19 (f) All other costs of a nature comparable to those described above;
- 20 (6) "Assessment" means the job development assessment fee authorized by KRS
- 21 154.22-010 to 154.22-080;
- 22 (7) "Authority" means the Kentucky Economic Development Finance Authority as
- 23 created in KRS 154.20-010;
- 24 (8) "Average hourly wage" means the wage and employment data published by the
- 25 Office of Employment and Training within the Department of Workforce
- 26 Investment in the Education and Workforce Development Cabinet collectively
- 27 translated into wages per hour based on a two thousand eighty (2,080) hour work

1 year for the following sectors:

- 2 (a) Manufacturing;
- 3 (b) Transportation, communications, and public utilities;
- 4 (c) Wholesale and retail trade;
- 5 (d) Finance, insurance, and real estate; and
- 6 (e) Services;

7 (9) "Commonwealth" means the Commonwealth of Kentucky;

8 (10) (a) "Economic development project" means and includes:

- 9 1. The acquisition of ownership in any real estate in a qualified county by
- 10 the authority, the approved manufacturing or agribusiness company, or
- 11 its affiliate;
- 12 2. The present ownership of real estate in a qualified county by the
- 13 approved manufacturing or agribusiness company or its affiliate;
- 14 3. The acquisition or present ownership of improvements or facilities, as
- 15 described in paragraph (b) of this subsection, on land which is possessed
- 16 or is to be possessed by the approved manufacturing or agribusiness
- 17 company pursuant to a ground lease having a term of sixty (60) years or
- 18 more;
- 19 4. The new construction of an electric generation facility; and
- 20 5. The legal possession of facilities by an approved company or its affiliate
- 21 pursuant to a lease having a term equal to or greater than fifteen (15)
- 22 years with a third-party entity, negotiated at arm's length, if the facility
- 23 will be used by the approved company to conduct the approved activity
- 24 for which the inducement has been granted. An economic development
- 25 project qualifying under this subparagraph shall only be eligible for
- 26 credits against equipment and costs related to installation of equipment
- 27 and for purposes of the tax credits provided under the provisions of KRS

154.22-010 to 154.22-080 only to the extent of twenty thousand dollars (\$20,000) per job created by and maintained at the economic development project. Notwithstanding KRS 154.22-050(8) and 154.22-060, an economic development project qualifying under this subparagraph shall be eligible only for the aggregate assessments pursuant to KRS 154.22-070 withheld by the approved company each year and shall not be eligible for credit against Kentucky income tax and limited liability entity tax.

- (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to paragraph (a)1., 2., and 3. of this subsection or this paragraph, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes, electric generation, or for agribusiness purposes. Pursuant to paragraph (a)3. and 5. of this subsection, an economic development project shall not include lease payments made

- 1 pursuant to a ground lease for purposes of the tax credits provided under the
2 provisions of KRS 154.22-010 to 154.22-080;
- 3 (11) "Electric generation" means the generation of electricity for resale by means of
4 combusting at least fifty percent (50%) of the total fuel used to generate electricity
5 from coal or from gas derived from coal;
- 6 (12) "Eligible company" means any corporation, limited liability company, partnership,
7 limited partnership, sole proprietorship, business trust, or any other entity engaged
8 in manufacturing, electric generation, or in agribusiness;
- 9 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
10 full-time employees for health insurance, life insurance, dental insurance, vision
11 insurance, defined benefits, 401(k), or similar plans;
- 12 (14) "Final approval" means the action taken by the authority authorizing the eligible
13 company to receive inducements under this subchapter;
- 14 (15) "Full-time employee" means a person employed by an approved company for a
15 minimum of thirty-five (35) hours per week and subject to the state income tax
16 imposed by KRS 141.020;
- 17 (16) "Inducements" means the assessment and the tax credits allowed by KRS 154.22-
18 060;
- 19 (17) "Manufacturing" means any activity involving the manufacturing, processing,
20 assembling, or production of any property, including the processing resulting in a
21 change in the conditions of the property and any activity related to it, together with
22 the storage, warehousing, distribution, and related office facilities; however,
23 "manufacturing" shall not include mining, coal or mineral processing, or extraction
24 of minerals;
- 25 (18) "Preliminary approval" means the action taken by the authority conditioning final
26 approval by the authority upon satisfaction by the eligible company of the
27 requirements under this subchapter;

- 1 (19) "Qualified county" means any county certified as such by the authority pursuant to
 2 KRS 154.22-010 to 154.22-080;
- 3 (20) "Revenues" shall not be considered state funds;
- 4 (21) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);
- 5 (22) "Tax incentive agreement" means the agreement entered into, pursuant to KRS
 6 154.22-050, between the authority and an approved company with respect to an
 7 economic development project;
- 8 (23) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
 9 141.0401; and
- 10 (24) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS
 11 141.0401.
- 12 ➔Section 38. KRS 154.22-040 is amended to read as follows:
- 13 (1) Each year, the authority shall under its Rural Economic Development Assistance
 14 Program, on the basis of the final unemployment figures calculated by the Office of
 15 Employment and Training within the Department of Workforce Investment in the
 16 Education and Workforce Development Cabinet, determine which counties have
 17 had a countywide rate of unemployment exceeding the statewide unemployment
 18 rate of the Commonwealth in the most recent five (5) consecutive calendar years, or
 19 which have had an average countywide rate of unemployment exceeding the
 20 statewide unemployment rate of the Commonwealth by two hundred percent
 21 (200%) in the most recent calendar year, and shall certify those counties as qualified
 22 counties. A county not certified on the basis of final unemployment figures may
 23 also be certified as a qualified county if the authority determines the county is one
 24 (1) of the sixty (60) most distressed counties in the Commonwealth based on the
 25 following criteria with equal weight given to each criterion:
- 26 (a) The average countywide rate of unemployment in the most recent three (3)
 27 consecutive calendar years, on the basis of final unemployment figures

1 calculated by the Office of Employment and Training within the Department
2 of Workforce Investment in the Education and Workforce Development
3 Cabinet;

4 (b) In each county the percentage of adults twenty-five (25) years of age and older
5 who have attained at least a high school education or equivalent, on the basis
6 of the most recent data available from the United States Department of
7 Commerce, Bureau of the Census; and

8 (c) Road quality, as quantified by the access within a county to roads ranked in
9 descending order from best quality to worst quality as follows: two (2) or
10 more interstate highways, one (1) interstate highway, a state four (4) lane
11 parkway, four (4) lane principal arterial access to an interstate highway, state
12 two (2) lane parkway and none of the preceding road types, as certified by the
13 Kentucky Transportation Cabinet to the authority.

14 If the authority determines that a county which has previously been certified as a
15 qualified county no longer meets the criteria of this subsection, the authority shall
16 decertify that county. The authority shall not provide inducements for any facilities
17 in that county and an approved company shall not be eligible for the inducements
18 offered by KRS 154.22-010 to 154.22-070 unless the tax incentive agreements
19 required herein are entered into by all parties prior to July 1 of the year following
20 the calendar year in which the authority decertified that county. In addition, the
21 authority shall certify coal-producing counties, not otherwise certified as qualified
22 counties in this subsection, for economic development projects involving the new
23 construction of electric generation facilities. A coal-producing county shall mean a
24 county in the Commonwealth of Kentucky that has produced coal upon which the
25 tax imposed under KRS 143.020 was paid at any time. For economic development
26 projects undertaken in a regional industrial park, as defined in KRS 42.4588, or in
27 an industrial park created pursuant to an interlocal agreement in which revenues are

1 shared as provided in KRS 65.245, where the physical boundaries of the industrial
2 park lie within two (2) or more counties of which at least one (1) of the counties is a
3 qualified county under this section, an eligible company undertaking an economic
4 development project within the physical boundaries of the industrial park may be
5 approved for the inducements under KRS 154.22-010 to 154.22-080.

6 (2) The authority shall establish the procedures and standards for the determination and
7 approval of eligible companies and their economic development projects by the
8 promulgation of administrative regulations in accordance with KRS Chapter 13A.
9 The criteria for approval of eligible companies and economic development projects
10 shall include but not be limited to the creditworthiness of eligible companies; the
11 number of new jobs to be provided by an economic development project to
12 residents of the Commonwealth; and the likelihood of the economic success of the
13 economic development project.

14 (3) The economic development project shall involve a minimum investment of one
15 hundred thousand dollars (\$100,000) by the eligible company and shall result in the
16 creation by the eligible company, within two (2) years from the date of the final
17 approval authorizing the economic development project, of a minimum of fifteen
18 (15) new full-time jobs at the site of the economic development project for
19 Kentucky residents to be employed by the eligible company and to be held by
20 persons subject to the personal income tax of the Commonwealth. The authority
21 may extend this two (2) year period upon the written application of an eligible
22 company requesting an extension.

23 (4) (a) Within six (6) months after the activation date, the approved company shall
24 compensate a minimum of ninety percent (90%) of its full-time employees
25 whose jobs were created with base hourly wages equal to either:

26 1. Seventy-five percent (75%) of the average hourly wage for the
27 Commonwealth; or

1 2. Seventy-five percent (75%) of the average hourly wage for the county in
2 which the project is to be undertaken.

3 (b) If the base hourly wage calculated in paragraph (a)1. or 2. of this subsection is
4 less than one hundred fifty percent (150%) of the federal minimum wage, then
5 the base hourly wage shall be one hundred fifty percent (150%) of the federal
6 minimum wage. However, for projects receiving preliminary approval of the
7 authority prior to July 1, 2008, the base hourly wage shall be one hundred fifty
8 percent (150%) of the federal minimum wage existing on January 1, 2007. In
9 addition to the applicable base hourly wage calculated above, the eligible
10 company shall provide employee benefits equal to at least fifteen percent
11 (15%) of the applicable base hourly wage; however, if the eligible company
12 does not provide employee benefits equal to at least fifteen percent (15%) of
13 the applicable base hourly wage, the eligible company may qualify under this
14 section if it provides the employees hired by the eligible company as a result
15 of the economic development project total hourly compensation equal to or
16 greater than one hundred fifteen percent (115%) of the applicable base hourly
17 wage through increased hourly wages combined with employee benefits.

18 (c) The requirements of this subsection shall not apply to eligible companies
19 which are nonprofit corporations established under KRS 273.163 to 273.387
20 and whose employees are handicapped and sheltered workshop workers
21 employed at less than the established minimum wage as authorized by KRS
22 337.295.

23 For an eligible company, within a regional industrial park which lies within two (2)
24 or more counties, the calculation of the wage and benefit requirement shall be
25 determined by averaging the average county hourly wage for all counties within the
26 regional industrial park.

27 (5) No economic development project which will result in the replacement of

1 agribusiness, manufacturing, or electric generation facilities existing in the state
 2 shall be approved by the authority; however, the authority may approve an
 3 economic development project that:

4 (a) Rehabilitates an agribusiness, manufacturing, or electric generation facility:

- 5 1. Which has not been in operation for a period of ninety (90) or more
 6 consecutive days;
- 7 2. For which the current occupant of the facility has published a notice of
 8 closure so long as the eligible company intending to acquire the facility
 9 is not an affiliate of the current occupant; or
- 10 3. The title to which is vested in other than the eligible company or an
 11 affiliate of the eligible company and that is sold or transferred pursuant
 12 to a foreclosure ordered by a court of competent jurisdiction or an order
 13 of a bankruptcy court of competent jurisdiction;

14 (b) Replaces an agribusiness, manufacturing, or electric generation facility
 15 existing in the Commonwealth:

- 16 1. The title to which shall have been taken under the exercise of the power
 17 of eminent domain, or the title to which shall be the subject of a
 18 nonappealable judgment granting the authority to exercise the power of
 19 eminent domain, in either event to the extent that normal operations
 20 cannot be resumed at the facility within twelve (12) months; or
- 21 2. Which has been damaged or destroyed by fire or other casualty to the
 22 extent that normal operations cannot be resumed at the facility within
 23 twelve (12) months; or

24 (c) Replaces an existing agribusiness, manufacturing, or electric generation
 25 facility located in the same qualified county, and the existing agribusiness,
 26 manufacturing, or electric generation facility to be replaced cannot be
 27 expanded due to the unavailability of real estate at or adjacent to the

agribusiness, manufacturing, or electric generation facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the agribusiness, manufacturing, or electric generation facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

- (6) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval, the authority may by final approval designate an eligible company to be an approved company.

➔Section 39. KRS 154.23-010 is amended to read as follows:

As used in KRS 154.23-005 to 154.23-079, unless the context clearly indicates otherwise:

- (1) "Affiliate" has the same meaning as in KRS 154.22-010;
- (2) "Approved company" means an eligible company that locates an economic development project in a qualified zone, as provided for in KRS 154.23-030;
- (3) "Approved costs" means:
 - (a) For an approved company that establishes a new manufacturing facility or expands an existing manufacturing facility, the following obligations incurred in its economic development project, including rent under leases subject to subsection (8)(b)4. of this section:

- 1 1. The cost of labor, contractors, subcontractors, builders, and material
- 2 workers in connection with the acquisition, construction, installation,
- 3 equipping, and rehabilitation of an economic development project;
- 4 2. The cost of acquiring real estate or rights in land and any cost incidental
- 5 thereto, including recording fees;
- 6 3. The cost of contract bonds and insurance of all kinds that may be
- 7 required or necessary during the course of acquisition, construction,
- 8 installation, equipping, and rehabilitation of an economic development
- 9 project that is not paid by the contractor or contractors or otherwise
- 10 provided for;
- 11 4. The cost of architectural and engineering services, including test
- 12 borings, surveys, estimates, plans and specifications, preliminary
- 13 investigations, and supervision of construction, as well as for the
- 14 performance of all duties required by or consequent to the acquisition,
- 15 construction, installation, equipping, and rehabilitation of an economic
- 16 development project;
- 17 5. All costs required to be paid under the terms of any contract for the
- 18 acquisition, construction, installation, equipping, and rehabilitation of an
- 19 economic development project; and
- 20 6. All other costs of a nature comparable to those described above; or
- 21 (b) For an approved company that establishes a new service or technology
- 22 business or expands existing service or technology operations, up to a
- 23 maximum of fifty percent (50%) of the total start-up costs during the term of
- 24 the service and technology agreement, plus up to a maximum of fifty percent
- 25 (50%) of the annual rent for each elapsed year of the service and technology
- 26 agreement;
- 27 (4) "Assessment" means the job development assessment fee authorized by KRS

1 154.23-055;

2 (5) "Authority" means the Kentucky Economic Development Finance Authority, as
3 created in KRS 154.20-010;

4 (6) "Average hourly wage" means the wage and employment data published by the
5 Office of Employment and Training within the Department of Workforce
6 Investment within the Education and Workforce Development Cabinet collectively
7 translated into wages per hour based on a two thousand eighty (2,080) hour work
8 year for the following sectors:

9 (a) Manufacturing;

10 (b) Transportation, communications, and public utilities;

11 (c) Wholesale and retail trade;

12 (d) Finance, insurance, and real estate; and

13 (e) Services;

14 (7) "Commonwealth" means the Commonwealth of Kentucky;

15 (8) "Economic development project" or "project" means:

16 (a) A new or expanded service or technology activity conducted at a new or
17 expanded site by:

18 1. An approved company; or

19 2. An approved company and its affiliate or affiliates; or

20 (b) Any of the following activities of an approved company engaged in
21 manufacturing:

22 1. The acquisition of or present ownership in any real estate in a qualified
23 zone for the purposes described in KRS 154.23-005 to 154.23-079,
24 which ownership shall include only fee simple ownership of real estate
25 and possession of real estate according to a capital lease as determined
26 in accordance with Statement of Financial Accounting Standards No. 13,
27 Accounting for Leases, issued by the Financial Accounting Standards

- 1 Board, November 1976;
- 2 2. The acquisition or present ownership of improvements or facilities on
3 land that is possessed or is to be possessed by the approved company in
4 a ground lease having a term of sixty (60) years or more; provided,
5 however, that this project shall not include lease payments made under a
6 ground lease for purposes of calculating the tax credits offered under
7 KRS 154.23-005 to 154.23-079;
- 8 3. The construction, installation, equipping, and rehabilitation of
9 improvements, fixtures, equipment, and facilities necessary or desirable
10 for improvement of the real estate owned, used, or occupied by the
11 approved company for manufacturing purposes. Construction activities
12 include surveys; site tests and inspections; subsurface site work;
13 excavation; removal of structures, roadways, cemeteries, and other
14 surface obstructions; filling, grading, and providing drainage and storm
15 water retention; installation of utilities such as water, sewer, sewage
16 treatment, gas, electric, communications, and similar facilities; off-site
17 construction of utility extensions to the boundaries of the real estate; or
18 similar activities as the authority may determine necessary for
19 construction; and
- 20 4. The leasing of real estate and the buildings and fixtures thereon
21 acquired, constructed, and installed with funds from grants under KRS
22 154.23-060;
- 23 (9) "Eligible company" means any corporation, limited liability company, partnership,
24 limited partnership, sole proprietorship, business trust, or any other legal entity
25 engaged in manufacturing, or service or technology; however, any company whose
26 primary purpose is retail sales shall not be an eligible company;
- 27 (10) "Employee benefits" means nonmandated costs paid by an eligible company for its

- 1 full-time employees for health insurance, life insurance, dental insurance, vision
2 insurance, defined benefits, 401(k), or similar plans;
- 3 (11) "Final approval" means action taken by the authority that authorizes the eligible
4 company to receive inducements in connection with a project under KRS 154.23-
5 005 to 154.23-079;
- 6 (12) "Full-time employee" means a person employed by an approved company for a
7 minimum of thirty-five (35) hours per week and subject to the state income tax
8 imposed by KRS 141.020;
- 9 (13) "Inducements" means the assessment and the income tax credits allowed to an
10 approved company under KRS 154.23-050 and 154.23-055;
- 11 (14) "Local government" means a city, county, or urban-county government;
- 12 (15) "Manufacturing" means to make, assemble, process, produce, or perform any other
13 activity that changes the form or conditions of raw materials and other property, and
14 shall include any ancillary activity to the manufacturing process, such as storage,
15 warehousing, distribution, and related office facilities; however, "manufacturing"
16 shall not include mining, the extraction of minerals or coal, or processing of these
17 resources;
- 18 (16) "Person" means an individual, sole proprietorship, partnership, limited partnership,
19 joint venture, trust, unincorporated organization, association, corporation, limited
20 liability company, institution, entity or government, whether federal, state, county,
21 city, or otherwise, including without limitation any instrumentality, division,
22 political subdivision, district, court, agency, or department thereof;
- 23 (17) "Preliminary approval" means action taken by the authority that conditions final
24 approval of an eligible company and its economic development project upon
25 satisfaction by the eligible company of the applicable requirements under KRS
26 154.23-005 to 154.23-079;
- 27 (18) "Qualified employee" means an individual subject to Kentucky income tax who has

1 resided in the qualified zone where the project exists for at least twelve (12)
2 consecutive months preceding full-time employment by an approved company;

3 (19) "Qualified statewide employee" means an individual subject to Kentucky income
4 tax who has resided in any census tract or county in the Commonwealth that meets
5 the criteria in KRS 154.23-015, regardless of whether the tract or county is in a
6 qualified zone, for at least twelve (12) consecutive months preceding full-time
7 employment by an approved company;

8 (20) "Qualified zone" means any census tract or county certified as such by the authority
9 in KRS 154.23-015 and 154.23-020;

10 (21) "Rent" means:

11 (a) The actual annual rent or leasing fee paid by an approved company to a bona
12 fide entity negotiated at arm's length for the use of a building by the approved
13 company to conduct the approved project for which the inducement has been
14 granted; or

15 (b) The fair rental value on an annual basis in a building owned by the approved
16 company of the space used by the approved company to conduct the approved
17 project for which the inducement has been granted as determined by the
18 authority using criteria that are customary in the real estate industry for the
19 type of building being used. The fair rental value shall include an analysis of
20 the cost of amortizing the cost of land and building over the period of time
21 customary in the real estate industry for the type of building and for the land
22 being utilized; and

23 (c) Rent shall include the customary cost of occupancy, including but not limited
24 to property taxes, heating and air conditioning, electricity, water, sewer, and
25 insurance;

26 (22) "Service and technology agreement" means any agreement entered into under KRS
27 154.23-040 on behalf of the authority, an approved company engaged in service or

1 technology, and third-party lessors, if applicable, with respect to an economic
2 development project;

3 (23) (a) "Service or technology" means either:

4 1. Any activity involving the performance of work, except work classified
5 by the divisions, including successor divisions, of agriculture, forestry
6 and fishing, mining, utilities, construction, manufacturing, wholesale
7 trade, retail trade, real estate rental and leasing, educational services,
8 accommodation and food services, and public administration in
9 accordance with the "North American Industry Classification System,"
10 as revised by the United States Office of Management and Budget from
11 time to time, or any successor publication; or

12 2. Regional or headquarters operations of an entity engaged in an activity
13 listed in subparagraph 1. of this paragraph.

14 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
15 shall not include any activity involving the performance of work by an
16 individual who is providing direct service to the public pursuant to a license
17 issued by the state or an association that licenses in lieu of the state;

18 (24) "Start-up costs" means the acquisition cost associated with the project and related to
19 furnishing and equipping a building for ordinary business functions, including
20 computers, nonrecurring costs of fixed telecommunication equipment, furnishings,
21 office equipment, and the relocation of out-of-state equipment, as verified and
22 approved by the authority in accordance with KRS 154.23-040;

23 (25) "Tax incentive agreement" means that agreement entered into pursuant to KRS
24 154.23-035 between the authority and an approved company with respect to an
25 economic development project;

26 (26) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
27 141.0401; and

1 (27) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
2 141.0401.

3 ➔Section 40. KRS 154.23-015 is amended to read as follows:

4 (1) Upon written application by a county, urban-county government, or city of the first
5 class, the authority shall certify one (1) to five (5) contiguous census tracts or a
6 county certified by the authority in accordance with KRS 154.22-040 as a qualified
7 zone. In the case of certification based on one (1) to five (5) contiguous census
8 tracts, each census tract shall independently meet each of the following criteria, as
9 verified by the Office of Employment and Training within the Department of
10 Workforce Investment in the Education and Workforce Development Cabinet:

11 (a) A minimum total poverty rate of one hundred fifty percent (150%) of the
12 United States poverty rate as determined by the most recent decennial census;

13 (b) An unemployment rate that exceeds the statewide unemployment rate as
14 determined on the basis of the most recent decennial census; and

15 (c) A minimum population density of two hundred percent (200%) of the average
16 Kentucky census tract population density as determined by the most recent
17 decennial census.

18 (2) Census tract information shall be based upon United States census data as set forth
19 in the most recent edition of Census of Population and Housing: Population and
20 Housing Characteristics for Census Tracts and Block Numbering Areas published
21 by the United States Bureau of the Census.

22 (3) The authority shall certify no more than one (1) qualified zone within each county
23 of the Commonwealth, except in the case of a county certified under KRS 154.22-
24 040, the entire county shall constitute the qualified zone.

25 (4) A qualified zone shall commence on the date of certification by the authority and
26 continue thereafter, except that at the time new decennial census data becomes
27 available, the authority shall decertify any census tract that no longer meets the

1 criteria of subsection (1) of this section for qualified zone status. The authority shall
 2 not give preliminary approval to any project in a decertified census tract. An
 3 approved company whose project is located in a decertified census tract shall not be
 4 eligible for the inducements offered by KRS 154.23-005 to 154.23-079, unless the
 5 tax incentive agreement or service and technology agreement is entered into by all
 6 parties prior to July 1 of the year following the calendar year in which the authority
 7 decertified that tract.

8 (5) If decertification causes a formerly certified contiguous census tract to become
 9 noncontiguous, the applicant shall have the discretion to eliminate or maintain the
 10 noncontiguous tract. If the applicant eliminates the noncontiguous tract, it may
 11 replace the noncontiguous tract with another qualifying census tract, subject to
 12 approval of the authority.

13 (6) A county, urban-county government, or city of the first class shall have no authority
 14 to request decertification of a census tract, and any addition of a census tract
 15 requested by a county, urban-county government, or city of the first class under
 16 KRS 154.23-020 shall be contiguous to a census tract that continues to meet the
 17 criteria under this section.

18 (7) The authority shall pay its costs of counsel relating to zone certification.

19 ➔Section 41. KRS 154.24-010 is amended to read as follows:

20 The following words and terms, unless the context clearly indicates a different meaning,
 21 shall have the following respective meanings in KRS 154.24-010 to 154.24-150:

22 (1) "Affiliate" has the same meaning as in KRS 154.22-010;

23 (2) "Agreement" means the service and technology agreement made pursuant to KRS
 24 154.24-120, between the authority and an approved company with respect to an
 25 economic development project;

26 (3) "Approved company" means any eligible company seeking to locate an economic
 27 development project from outside the Commonwealth into the Commonwealth, or

1 undertaking an economic development project in the Commonwealth for which it is
 2 approved pursuant to KRS 154.24-100;

3 (4) "Approved costs" means fifty percent (50%) of the total of the start-up costs up to a
 4 maximum of ten thousand dollars (\$10,000) per new full-time job created and to be
 5 held by a Kentucky resident subject to the personal income tax of the
 6 Commonwealth, plus fifty percent (50%) of the annual rent for each elapsed year of
 7 the service and technology agreement;

8 (5) "Assessment" means the "service and technology job creation assessment fee"
 9 authorized by KRS 154.24-110;

10 (6) "Authority" means the Kentucky Economic Development Finance Authority, as
 11 created in KRS 154.20-010;

12 (7) "Average hourly wage" means the wage and employment data published by the
 13 Office of Employment and Training within the Department of Workforce
 14 Investments within the Education and Workforce Development Cabinet collectively
 15 translated into wages per hour based on a two thousand eighty (2,080) hour work
 16 year for the following sectors:

- 17 (a) Manufacturing;
- 18 (b) Transportation, communications, and public utilities;
- 19 (c) Wholesale and retail trade;
- 20 (d) Finance, insurance, and real estate; and
- 21 (e) Services;

22 (8) "Commonwealth" means the Commonwealth of Kentucky;

23 (9) "Economic development project" or "project" means a new or expanded service or
 24 technology activity conducted at a new or expanded site by:

- 25 (a) An approved company; or
- 26 (b) An approved company and its affiliate or affiliates;

27 (10) "Eligible company" means any corporation, limited liability company, partnership,

1 limited partnership, sole proprietorship, business trust, or any other entity engaged
2 in service or technology and meeting the standards promulgated by the authority in
3 accordance with KRS Chapter 13A;

4 (11) "Employee benefits" means nonmandated costs paid by an approved company for
5 its full-time employees for health insurance, life insurance, dental insurance, vision
6 insurance, defined benefits, 401(k) or similar plans;

7 (12) "Final approval" means the action taken by the authority authorizing the eligible
8 company to receive inducements under this subchapter;

9 (13) "Full-time employee" means a person employed by an approved company for a
10 minimum of thirty-five (35) hours per week and subject to the state tax imposed by
11 KRS 141.020;

12 (14) "In lieu of credits" means a local government appropriation to the extent permitted
13 by law, or other form of local government grant or service benefit, directly related
14 to the economic development project and in an amount equal to one percent (1%) of
15 employees' gross wages, exclusive of any noncash benefits provided to an
16 employee, or the provision by a local government of an in-kind contribution directly
17 related to the economic development project and in an amount equal to one half
18 (1/2) of the rent for the duration of the agreement;

19 (15) "Inducements" means the tax credits allowed and the assessment authorized by KRS
20 154.24-110, which are intended to induce companies engaged in service and
21 technology industries to locate or expand in the Commonwealth;

22 (16) "Person" means an individual, sole proprietorship, partnership, limited partnership,
23 joint venture, trust, unincorporated organization, association, corporation, limited
24 liability company, institution, entity or government, whether federal, state, county,
25 city, or otherwise, including without limitation any instrumentality, division,
26 political subdivision, district, court, agency, or department thereof;

27 (17) "Preliminary approval" means the action taken by the authority conditioning final

1 approval by the authority upon satisfaction by the eligible company of the
 2 requirements under this subchapter;

3 (18) "Rent" means:

4 (a) The actual annual rent or leasing fee paid by an approved company to a bona
 5 fide entity negotiated at arms length for the use of a building by the approved
 6 company to conduct the approved activity for which the inducement has been
 7 granted; or

8 (b) The fair rental value on an annual basis in a building owned by the approved
 9 company of the space used by the approved company to conduct the approved
 10 activity for which the inducement has been granted as determined by the
 11 authority using criteria which is customary in the real estate industry for the
 12 type of building being used. The fair rental value shall include an analysis of
 13 the cost of amortizing the cost of land and building over the period of time
 14 customary in the real estate industry for the type of building and for the land
 15 being utilized;

16 (c) Rent shall include the customary cost of occupancy, including but not limited
 17 to property taxes, heating and air-conditioning, electricity, water, sewer, and
 18 insurance;

19 (19) (a) "Service or technology" means either:

- 20 1. Any activity involving the performance of work, except work classified
 21 by the divisions, including successor divisions, of agriculture, forestry
 22 and fishing, mining, utilities, construction, manufacturing, wholesale
 23 trade, retail trade, real estate rental and leasing, educational services,
 24 accommodation and food services, and public administration in
 25 accordance with the "North American Industry Classification System,"
 26 as revised by the United States Office of Management and Budget from
 27 time to time, or any successor publication; or

1 2. Regional or headquarters operations of an entity engaged in an activity
2 listed in subparagraph 1. of this paragraph.

3 (b) Notwithstanding paragraph (a) of this subsection, "service or technology"
4 shall not include any activity involving the performance of work by an
5 individual who is providing direct service to the public pursuant to a license
6 issued by the state or an association that licenses in lieu of the state unless
7 seventy-five percent (75%) of the services provided by the eligible company
8 from the project are provided to persons located outside the Commonwealth
9 during the period in which it receives the inducements authorized in KRS
10 154.24-110; and

11 (20) "Start-up costs" means the acquisition cost associated with the project related to the
12 furnishing and equipping the building for ordinary business functions, including
13 computers, furnishings, office equipment, the relocation of out-of-state equipment,
14 and nonrecurring costs of fixed telecommunication equipment as verified and
15 approved by the authority in accordance with KRS 154.24-130.

16 ➔Section 42. KRS 154.26-080 is amended to read as follows:

17 (1) The authority shall establish standards for the determination and approval of eligible
18 companies and their projects by the promulgation of administrative regulations in
19 accordance with KRS Chapter 13A.

20 (2) The criteria for approval of eligible companies and economic revitalization projects
21 shall include but not be limited to the:

22 (a) Need for the project;

23 (b) New capital investment in the project that will result in financial stability for
24 the manufacturing or coal mining and processing facility; and

25 (c) Retention or expansion of the greatest number of employees at the
26 manufacturing or coal mining and processing facility.

27 (3) With respect to each eligible company making an application to the authority for

1 inducements, and with respect to the project described in the application, the
 2 authority shall make inquiries and request materials of the applicant, including but
 3 not limited to written evidence that except for a substantial investment in the
 4 project, assisted by the inducements authorized by KRS 154.26-015 to 154.26-100,
 5 the eligible company will:

- 6 (a) Close its manufacturing or coal mining and processing facility; and
- 7 (b) Permanently lay off its employees and cease operations; or
- 8 (c) Not resume operations of a closed facility as permitted by KRS 154.26-
 9 010(9).

10 (4) The eligible company shall, in a manner acceptable to the authority, detail the
 11 condition of the facility, including but not limited to financial, efficiency, and
 12 productivity matters; explain in detail why the company intends to close the facility
 13 or not resume operations of the facility as permitted by KRS 154.26.010(9); and set
 14 out alternatives that are available to the company.

15 (5) As a part of its application, an eligible company as described in KRS 154.26-
 16 010(10)(b) may request an emergency declaration based upon the urgency of the
 17 request and its impact on the local or regional economy.

18 (6) A request for an emergency declaration shall be reviewed by the secretary of the
 19 Cabinet for Economic Development, the secretary of the Education **and Workforce**
 20 **Development** Cabinet, and the secretary of the Finance and Administration Cabinet
 21 and their findings in connection with the emergency declaration shall be delivered
 22 to the authority.

23 (7) If the emergency declaration is granted in accordance with subsection (6) of this
 24 section, the eligible company shall not be subject to the requirements contained in
 25 subsection (8), (9), or (11) of this section.

26 (8) In accordance with, and after the adoption of a resolution under subsection (10) of
 27 this section, the authority shall engage the services of a competent consulting firm

- 1 or technical resource to analyze the data made available by the company, and to
2 collect and analyze additional information necessary to determine that, in the
3 independent judgment of the consultant, the company will close the facility or not
4 resume operations of the facility as permitted by KRS 154.26-010(9) absent a
5 substantial investment in the project, assisted by the inducements authorized by
6 KRS 154.26-015 to 154.26-100. The company shall pay the cost of this evaluation.
- 7 (9) The company shall cooperate with the consultant and provide all of the data which
8 could reasonably be required by the consultant to make a fair assessment of the
9 company's intentions to close the facility or not resume operations of the facility as
10 permitted by KRS 154.26-010(9).
- 11 (10) After a review of relevant materials and completion of inquiries, the authority may,
12 by resolution, give its preliminary approval by designating an eligible company as a
13 preliminarily-approved company and authorizing the undertaking of the economic
14 revitalization project.
- 15 (11) The authority shall review the report of the consultant and other information which
16 has been made available to it in order to assist the authority in determining whether
17 the company intends to close the facility for valid reasons or whether it intends or is
18 able to resume operations of the facility in accordance with the requirements of
19 KRS 154.26-010(10)(b) if inducements are granted. The authority shall determine
20 the potential of the proposed revitalization project to make the facility stable,
21 productive, and competitive in its market.
- 22 (12) After the review of the consultant's report or if an emergency declaration has been
23 issued in accordance with subsection (6) of this section, the authority shall hold a
24 public hearing to solicit public comment from any person, group, or interested party
25 regarding the proposed project.
- 26 (13) After the public hearing, the authority, by resolution, may:
- 27 (a) Declare the jobs then existing at the facility to be lost or the company unable

1 to resume operations as permitted by KRS 154.26-010(9);

2 (b) Give its final approval to the eligible company's application for a project; and

3 (c) Grant to the eligible company the status of an approved company.

4 The decision reached by the authority shall be final and no appeal shall be granted.

5 (14) All meetings of the authority shall be held in accordance with KRS 61.805 to
6 61.850. The authority may, pursuant to KRS 61.815, hold closed sessions of its
7 meetings to discuss matters exempt from the open meetings law and pertaining to
8 an eligible company.

9 ➔Section 43. KRS 154.28-010 is amended to read as follows:

10 As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

11 (1) "Activation date" means a date selected by an approved company in the agreement
12 at any time within the two (2) year period after the date of final approval of the
13 agreement by the authority;

14 (2) "Affiliate" has the same meaning as in KRS 154.22-010;

15 (3) "Agreement" means the tax incentive agreement entered into, pursuant to KRS
16 154.28-090, between the authority and an approved company with respect to an
17 economic development project;

18 (4) "Agribusiness" means any activity involving the processing of raw agricultural
19 products, including timber, or the providing of value-added functions with regard to
20 raw agricultural products;

21 (5) "Approved company" means any eligible company, approved by the authority
22 pursuant to KRS 154.28-080, requiring an economic development project;

23 (6) "Approved costs" means:

24 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,
25 builders, suppliers, deliverymen, and materialmen in connection with the
26 acquisition, construction, rehabilitation, and installation of an economic
27 development project;

- 1 (b) The cost of contract bonds and of insurance of all kinds that may be required
- 2 or necessary during the course of acquisition, construction, rehabilitation, and
- 3 installation of an economic project which is not paid by the vendor, supplier,
- 4 deliverymen, contractors, or otherwise else provided;
- 5 (c) All costs of architectural and engineering services, including estimates, plans
- 6 and specifications, preliminary investigations, and supervision of construction,
- 7 rehabilitation, and installation, as well as for the performance of all the duties
- 8 required by or consequent upon the acquisition, construction, rehabilitation,
- 9 and installation of an economic development project;
- 10 (d) All costs which shall be required to be paid under the terms of any contract for
- 11 the acquisition, construction, rehabilitation, and installation of an economic
- 12 development project;
- 13 (e) All costs which shall be required for the installation of utilities such as water,
- 14 sewer, sewer treatment, gas, electricity, communications, railroads, and
- 15 similar facilities, and including offsite construction of the facilities paid for by
- 16 the approved company; and
- 17 (f) All other costs comparable to those described above;
- 18 (7) "Assessment" means the job development assessment fee authorized by KRS
- 19 154.28-010 to 154.28-100;
- 20 (8) "Authority" means the Kentucky Economic Development Finance Authority created
- 21 by KRS 154.20-010;
- 22 (9) "Average hourly wage" means the wage and employment data published by the
- 23 Office of Employment and Training within the Department of Workforce
- 24 Investment in the Education and Workforce Development Cabinet collectively
- 25 translated into wages per hour based on a two thousand eighty (2,080) hour work
- 26 year for the following sectors:
- 27 (a) Manufacturing;

1 (b) Transportation, communications, and public utilities;

2 (c) Wholesale and retail trade;

3 (d) Finance, insurance, and real estate; and

4 (e) Services;

5 (10) "Commonwealth" means the Commonwealth of Kentucky;

6 (11) (a) "Economic development project" or "project" means and includes:

7 1. The acquisition of ownership in any real estate by the approved
8 manufacturing or agribusiness company or its affiliate;

9 2. The present ownership of real estate by the approved manufacturing or
10 agribusiness company or its affiliate;

11 3. The acquisition or present ownership of improvements or facilities, as
12 described in paragraph (b) of this subsection, on land which is possessed
13 or is to be possessed by the approved company pursuant to a ground
14 lease having a term of sixty (60) years or more; and

15 4. The legal possession of facilities by an approved company or its affiliate
16 pursuant to a lease having a term equal to or greater than ten (10) years
17 with a third-party entity, negotiated at arm's length, if the facility will be
18 used by the approved company to conduct the approved activity for
19 which the inducement has been granted. An economic development
20 project qualifying under this subparagraph shall only be eligible for
21 credits against equipment and costs related to installation of equipment
22 and for purposes of the tax credits provided under the provisions of KRS
23 154.28-010 to 154.28-090 only to the extent of twenty thousand dollars
24 (\$20,000) per job created by and maintained at the economic
25 development project. Notwithstanding KRS 154.28-090, an economic
26 development project qualifying under this subparagraph shall be eligible
27 only for the aggregate assessments pursuant to KRS 154.28-110

1 withheld by the approved company each year and shall not be eligible
2 for credit against Kentucky income tax and limited liability entity tax.

3 (b) For purposes of paragraph (a)1. and 2. of this subsection, ownership of real
4 estate shall only include fee ownership of real estate and possession of real
5 estate pursuant to a capital lease as determined in accordance with Statement
6 of Financial Accounting Standards No. 13, Accounting for Leases, issued by
7 the Financial Accounting Standards Board, November 1976. With respect to
8 paragraph (a)1., 2., and 3. of this subsection, the construction, installation,
9 equipping, and rehabilitating of improvements, including fixtures and
10 equipment directly involved in the manufacturing process, and facilities
11 necessary or desirable for improvement of the real estate shall include:
12 surveys, site tests, and inspections; subsurface site work and excavation;
13 removal of structures, roadways, cemeteries, and other site obstructions;
14 filling, grading, provision of drainage, and storm water retention; installation
15 of utilities such as water, sewer, sewage treatment, gas, electricity,
16 communications, and similar facilities; offsite construction of utility
17 extensions to the boundaries of the real estate; and the acquisition,
18 installation, equipping, and rehabilitation of manufacturing facilities or
19 agribusiness operations on the real estate for the use of the approved company
20 or its affiliates for manufacturing or agribusiness operational purposes.
21 Pursuant to paragraph (a)3. and 4. of this subsection and this paragraph, an
22 economic development project shall not include lease payments made
23 pursuant to a ground lease for purposes of the tax credits provided under the
24 provisions of KRS 154.28-010 to 154.28-100. An economic development
25 project shall include the equipping of a facility with equipment but, for
26 purposes of the tax credits provided under the provisions of KRS 154.28-010
27 to 154.28-090, only to the extent of twenty thousand dollars (\$20,000) per job

1 created by and maintained at the economic development project;

2 (12) "Eligible company" means any corporation, limited liability company, partnership,
3 limited partnership, sole proprietorship, trust, or any other entity engaged in
4 manufacturing or agribusiness operations;

5 (13) "Employee benefits" means nonmandated costs paid by an eligible company for its
6 full-time employees for health insurance, life insurance, dental insurance, vision
7 insurance, defined benefits, 401(k), or similar plans;

8 (14) "Full-time employee" means a person employed by an approved company for a
9 minimum of thirty-five (35) hours per week and subject to the state income tax
10 imposed by KRS 141.020;

11 (15) "Inducement" means the assessment or the Kentucky income tax credit as set forth
12 in KRS 154.28-090;

13 (16) "Manufacturing" means any activity involving the manufacturing, processing,
14 assembling, or production of any property, including the processing resulting in a
15 change in the conditions of the property, and any activity functionally related to it,
16 together with storage, warehousing, distribution, and related office facilities;
17 however, "manufacturing" shall not include mining, coal or mineral processing, or
18 extraction of minerals;

19 (17) "State agency" shall have the meaning assigned to the term in KRS 56.440(8);

20 (18) "Kentucky gross profits" means "Kentucky gross profits" as defined in KRS
21 141.0401; and

22 (19) "Kentucky gross receipts" means "Kentucky gross receipts" as defined in KRS
23 141.0401.

24 ➔Section 44. KRS 154.47-015 is amended to read as follows:

25 (1) The Kentucky Wood Products Competitiveness Corporation is created and
26 established, as a de jure municipal corporation and political subdivision of the
27 Commonwealth of Kentucky which shall be a public body corporate and politic,

1 performing functions and purposes essential to improving and promoting the health
 2 and general welfare of the people of the Commonwealth through promoting,
 3 enhancing, and developing the Commonwealth's secondary wood products
 4 industries by:

- 5 (a) Disseminating information;
- 6 (b) Providing services;
- 7 (c) Developing workforce training measures and standards to support value-added
 8 functions with regard to design, processing and manufacture, and marketing of
 9 wood products; and
- 10 (d) Providing financial support for the deployment of new or improved
 11 technology and world-class manufacturing systems to businesses engaged in
 12 the production and manufacture of value-added wood products.

13 (2) The corporation shall be governed by a board of thirteen (13) members, consisting
 14 of seven (7) members representing the private sector including four (4)
 15 representatives of Kentucky's secondary wood products industry; one (1) member
 16 representing the Kentucky Forest Products Council as created and established by
 17 KRS 154.47-110; one (1) member representing the Education and Workforce
 18 Development Cabinet; and four (4) members representing the following universities
 19 with one (1) member each representing the University of Kentucky, the University
 20 of Louisville, Eastern Kentucky University, and Morehead State University.

21 (3) The initial appointments to the board shall be made on or before October 1, 1994, in
 22 the following manner:

- 23 (a) Seven (7) private sector members shall be made by the Governor from names
 24 of persons submitted on or before August 30, 1994, in the following manner:
- 25 1. Two (2) from a list of six (6) nominees from the secondary wood
 26 products industry submitted in writing by the Kentucky Wood
 27 Manufacturers Network;

- 1 2. Two (2) from a list of six (6) nominees from the secondary wood
- 2 products industry submitted in writing by the Kentucky Forest Industries
- 3 Association;
- 4 3. One (1) from a list of three (3) nominees submitted in writing by the
- 5 Mountain Association for Community Economic Development;
- 6 4. One (1) from a list of three (3) nominees submitted in writing from grass
- 7 roots community economic development organizations that have a
- 8 demonstrated interest in the development of secondary wood products
- 9 industries; and
- 10 5. One (1) from a list of three (3) nominees from private business
- 11 submitted in writing by the Kentucky Economic Development
- 12 Partnership.
- 13 (b) The Kentucky Forest Products Council, the secretary of the Education and
- 14 Workforce Development Cabinet, and the presidents of the University of
- 15 Kentucky, the University of Louisville, Eastern Kentucky University, and
- 16 Morehead State University shall each designate a representative of their
- 17 respective organizations to be appointed by the Governor to the board.
- 18 (c) If any organization or institution as specified in paragraph (a) of this
- 19 subsection does not nominate persons for appointment as prescribed therein,
- 20 the Governor may solicit names from any other source, or he may appoint
- 21 from the list of names submitted by the remaining organizations.
- 22 (d) The initial term of office for the seven (7) private sector members shall be
- 23 staggered so that four (4) members shall serve for a term of three (3) years and
- 24 three (3) members shall serve for a term of four (4) years. Subsequent
- 25 appointments shall be made in the same manner as prescribed for original
- 26 appointments, and shall be for four (4) year terms each.
- 27 (4) Except as prescribed in subsection (3)(d) of this section and for the appointee

1 representing the Education *and Workforce Development* Cabinet, all appointments
 2 shall have a term of four (4) years. The term for the person appointed from the
 3 Education *and Workforce Development* Cabinet shall be the same as that of the
 4 Governor. Any appointment made by the Governor to fill an unexpired term shall
 5 be only for the remaining time of the vacated appointment. Nothing contained in
 6 this section shall be construed as prohibiting the reappointment of a member of the
 7 board to succeeding terms if, the person to be reappointed has been nominated or
 8 designated in the manner as prescribed for original appointments set forth in this
 9 section.

10 ➔Section 45. KRS 154.48-010 is amended to read as follows:

11 As used in KRS 154.48-010 to 154.48-035, unless the context clearly indicates otherwise:

- 12 (1) "Activation date" means a date selected by an approved company in the tax
 13 incentive agreement at any time within a two (2) year period after the date of final
 14 approval of the tax incentive agreement by the authority;
- 15 (2) "Affiliate" means the following:
- 16 (a) Members of a family, including only brothers and sisters of the whole or half
 17 blood, spouse, ancestors, and lineal descendants of an individual;
- 18 (b) An individual, and a corporation more than fifty percent (50%) in value of the
 19 outstanding stock of which is owned, directly or indirectly, by or for that
 20 individual;
- 21 (c) An individual, and a limited liability company of which more than fifty
 22 percent (50%) of the capital interest or profits are owned or controlled,
 23 directly or indirectly, by or for that individual;
- 24 (d) Two (2) corporations which are members of the same controlled group, which
 25 includes and is limited to:
- 26 1. One (1) or more chains of corporations connected through stock
 27 ownership with a common parent corporation if:

- 1 a. Stock possessing more than fifty percent (50%) of the total
- 2 combined voting power of all classes of stock entitled to vote or
- 3 more than fifty percent (50%) of the total value of shares of all
- 4 classes of stock of each of the corporations, except the common
- 5 parent corporation, is owned by one (1) or more of the other
- 6 corporations; and
- 7 b. The common parent corporation owns stock possessing more than
- 8 fifty percent (50%) of the total combined voting power of all
- 9 classes of stock entitled to vote or more than fifty percent (50%) of
- 10 the total value of shares of all classes of stock of at least one (1) of
- 11 the other corporations, excluding, in computing the voting power
- 12 or value, stock owned directly by the other corporations; or
- 13 2. Two (2) or more corporations if five (5) or fewer persons who are
- 14 individuals, estates, or trusts own stock possessing more than fifty
- 15 percent (50%) of the total combined voting power of all classes of stock
- 16 entitled to vote or more than fifty percent (50%) of the total value of
- 17 shares of all classes of stock of each corporation, taking into account the
- 18 stock ownership of each person only to the extent the stock ownership is
- 19 identical with respect to each corporation;
- 20 (e) A grantor and a fiduciary of any trust;
- 21 (f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a
- 22 grantor of both trusts;
- 23 (g) A fiduciary of a trust and a beneficiary of that trust;
- 24 (h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a
- 25 grantor of both trusts;
- 26 (i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value
- 27 of the outstanding stock of which is owned, directly or indirectly, by or for the

- 1 trust or by or for a person who is a grantor of the trust;
- 2 (j) A fiduciary of a trust and a limited liability company more than fifty percent
- 3 (50%) of the capital interest, or the interest in profits, of which is owned
- 4 directly or indirectly, by or for the trust or by or for a person who is a grantor
- 5 of the trust;
- 6 (k) A corporation, a partnership, or a limited partnership if the same persons own:
- 7 1. More than fifty percent (50%) in value of the outstanding stock of the
- 8 corporation; and
- 9 2. More than fifty percent (50%) of the capital interest, or the profits
- 10 interest, in the partnership or limited partnership;
- 11 (l) A corporation and a limited liability company if the same persons own:
- 12 1. More than fifty percent (50%) in value of the outstanding stock of the
- 13 corporation; and
- 14 2. More than fifty percent (50%) of the capital interest or the profits in the
- 15 limited liability company;
- 16 (m) A partnership or limited partnership and a limited liability company if the
- 17 same persons own:
- 18 1. More than fifty percent (50%) of the capital interest or profits in the
- 19 partnership or limited partnership; and
- 20 2. More than fifty percent (50%) of the capital interest or the profits in the
- 21 limited liability company;
- 22 (n) An S corporation and another S corporation if the same persons own more
- 23 than fifty percent (50%) in value of the outstanding stock of each corporation,
- 24 S corporation designation being the same as that designation under the
- 25 Internal Revenue Code of 1986, as amended; or
- 26 (o) An S corporation and a C corporation, if the same persons own more than fifty
- 27 percent (50%) in value of the outstanding stock of each corporation; S and C

1 corporation designations being the same as those designations under the
2 Internal Revenue Code of 1986, as amended;

3 (3) "Approved company" means any eligible company for which the authority has
4 granted final approval of its application pursuant to KRS 154.48-025;

5 (4) "Approved costs" means one hundred percent (100%) of the eligible skills upgrade
6 training costs and up to twenty-five percent (25%) of the eligible equipment costs
7 approved by the authority that an approved company may recover through the
8 inducements authorized by KRS 154.48-010 to 154.48-035;

9 (5) "Authority" means the Kentucky Economic Development Finance Authority created
10 by KRS 154.20-010;

11 (6) "Average hourly wage" means the wage and employment data published by the
12 Office of Employment and Training in the Department of Workforce Investment
13 within the Education and Workforce Development Cabinet collectively translated
14 into wages per hour based on a two thousand eighty (2,080) hour work year for the
15 following sectors:

- 16 (a) Manufacturing;
- 17 (b) Transportation, communications, and public utilities;
- 18 (c) Wholesale and retail trade;
- 19 (d) Finance, insurance, and real estate; and
- 20 (e) Services;

21 (7) "Commonwealth" means the Commonwealth of Kentucky;

22 (8) "Eligible company" means any entity that undertakes an environmental stewardship
23 project;

24 (9) "Eligible costs" means eligible equipment costs plus eligible skills upgrade training
25 costs expended after preliminary approval of the environmental stewardship project;

26 (10) "Eligible equipment costs" means:

- 27 (a) Obligations incurred for labor and to vendors, contractors, subcontractors,

1 builders, suppliers, deliverymen, and materialmen in connection with the
2 acquisition, construction, equipping, and installation of an environmental
3 stewardship project;

4 (b) The cost of contract bonds and of insurance of all kinds that may be required
5 or necessary during the course of acquisition, construction, equipping, and
6 installation of an environmental stewardship project which is not paid by the
7 vendor, supplier, deliveryman, contractor, or otherwise provided;

8 (c) All costs of architectural and engineering services, including estimates, plans
9 and specifications, preliminary investigations, and supervision of construction,
10 rehabilitation and installation, as well as for the performance of all the duties
11 required by or consequent upon the acquisition, construction, equipping, and
12 installation of an environmental stewardship project;

13 (d) All costs required to be paid under the terms of any contract for the
14 acquisition, construction, equipping, and installation of an environmental
15 stewardship project;

16 (e) All costs paid for by the approved company that are required for the
17 installation of utilities, including but not limited to water, sewer, sewer
18 treatment, gas, electricity, communications, and access to transportation, and
19 including off-site construction of the facilities necessary for implementation of
20 an environmental stewardship project; and

21 (f) All other costs of a nature comparable to those described in this subsection.

22 (11) "Eligible skills upgrade training costs" means:

23 (a) Fees or salaries required to be paid to instructors who are employees of the
24 approved company, instructors who are full-time, part-time, or adjunct
25 instructors with an educational institution, and instructors who are consultants
26 on contract with an approved company in connection with an occupational
27 training program sponsored by an approved company for its full-time

- 1 employees and specifically relating to an environmental stewardship project;
- 2 (b) Administrative fees charged by educational institutions in connection with an
3 occupational training program sponsored by an approved company for its full-
4 time employees and specifically relating to an environmental stewardship
5 project;
- 6 (c) The cost of supplies, materials, and equipment used exclusively in an
7 occupational training program sponsored by an approved company for its full-
8 time employees and specifically relating to an environmental stewardship
9 project;
- 10 (d) The cost of leasing a training facility where space is unavailable at an
11 educational institution or at the premises of an approved company in
12 connection with an occupational training program sponsored by an approved
13 company for its full-time employees and specifically relating to an
14 environmental stewardship project;
- 15 (e) Employee wages to be paid in connection with an occupational training
16 program sponsored by an approved company for its full-time employees and
17 specifically relating to an environmental stewardship project;
- 18 (f) Travel expenses paid by the approved company as incurred by its full-time
19 employees resulting directly from the costs of transportation, lodging and
20 meals that are directly related to an occupational training program necessary
21 for the implementation of an environmental stewardship project; and
- 22 (g) All other costs of a nature comparable to those described in this subsection;
- 23 (12) "Employee benefits" means nonmandated costs paid by an eligible company for its
24 full-time employees for health insurance, life insurance, dental insurance, vision
25 insurance, defined benefits, 401(k) or similar plans;
- 26 (13) "Environmental stewardship product" means any new manufactured product or
27 substantially improved existing manufactured product that has a lesser or reduced

1 adverse effect on human health and the environment or provides for improvement to
 2 human health and the environment when compared with existing products or
 3 competing products that serve the same purpose. Such products may include but are
 4 not limited to those which contain recycled content, minimize waste, conserve
 5 energy or water, and reduce the amount of toxics disposed or consumed, but shall
 6 not include products that are the result of the production of energy or energy
 7 producing fuels;

8 (14) "Environmental stewardship project" or "project" means:

9 (a) The acquisition, construction, and installation of new equipment and, with
 10 respect thereto:

- 11 1. The construction, rehabilitation, and installation of improvements to
- 12 facilities necessary to house the new equipment, including surveys;
- 13 2. Installation of utilities including water, sewer, sewage treatment, gas,
- 14 electricity, communications, and similar facilities;
- 15 3. Off-site construction of utility extensions to the boundaries of the real
- 16 estate on which the facilities are located;

17 All of which are utilized by an approved company or its affiliate to
 18 manufacture an environmental stewardship product as reviewed and
 19 recommended to the authority by the Environmental and Public Protection
 20 Cabinet; and

21 (b) The provision of an occupational training program to provide the employees
 22 of an approved company or its affiliate with the knowledge and skills
 23 necessary to manufacture the new product;

24 (15) "Final approval" means the action taken by the authority designating an eligible
 25 company that has previously received a preliminary approval as an approved
 26 company and authorizing the execution of an environmental stewardship agreement
 27 between the authority and the approved company;

- 1 (16) "Full-time employee" means a person employed by an approved company for a
 2 minimum of thirty-five (35) hours per week and subject to the state income tax
 3 imposed by KRS 141.020;
- 4 (17) "Inducement" means the Kentucky tax credit as authorized by KRS 154.48-010 to
 5 154.48-035;
- 6 (18) "Manufacturing" means any activity involving the manufacturing, processing,
 7 assembling, or production of any property, including the processing that results in a
 8 change in the condition of the property and any related activity or function, together
 9 with the storage, warehousing, distribution, and related office facilities;
- 10 (19) "Preliminary approval" means the action taken by the authority designating an
 11 eligible company as a preliminarily approved company, and conditioning final
 12 approval by the authority upon satisfaction by the eligible company of the
 13 requirements set forth in the preliminary approval;
- 14 (20) "Kentucky gross receipts" means Kentucky gross receipts as defined in KRS
 15 141.0401; and
- 16 (21) "Kentucky gross profits" means Kentucky gross profits as defined in KRS
 17 141.0401.

18 ➔Section 46. KRS 157.910 is amended to read as follows:

- 19 (1) There is hereby established the Kentucky Environmental Education Council,
 20 referred to hereafter as the council, to provide leadership and planning for
 21 environmental education for the population of Kentucky through the cooperative
 22 efforts of educators, government agencies, businesses, and public interests. The
 23 council shall be an independent agency and be attached to the Education and
 24 Workforce Development Cabinet for administrative purposes.
- 25 (2) The nine (9) member council shall be appointed to four (4) year terms by the
 26 Governor and be composed of a balance of education, government, industry, and
 27 environmental interests. Members appointed by the Governor shall have the

1 authority to carry out the provisions of KRS 157.900 to 157.915.

2 (3) The council shall hire an executive director, environmental education specialists,
3 and clerical staff to carry out the functions and duties of the council.

4 (4) The council members shall receive no compensation, but shall be reimbursed for
5 actual expenses incurred in accordance with state procedures and policies.

6 (5) The council membership shall elect a chairperson to serve a one (1) year term.

7 ➔Section 47. KRS 157.921 is amended to read as follows:

8 (1) The Kentucky Geographic Education Board is established to provide leadership and
9 planning for geography education for the population of Kentucky through the efforts
10 of elementary, secondary, and postsecondary educators, government agencies, and
11 public interests. The board shall be an independent agency and be attached to the
12 Education and Workforce Development Cabinet for administrative purposes.

13 (2) The twelve (12) member board shall be appointed to two (2) year terms, initially
14 appointed by the Governor, and composed of the following members:

15 (a) Three (3) representatives from postsecondary institutions;

16 (b) One (1) representative from the Council for Social Sciences;

17 (c) Six (6) representatives from elementary and secondary schools;

18 (d) One (1) representative of the Department of Education; and

19 (e) One (1) representative of the Council on Postsecondary Education.

20 (3) The board shall select from its membership a chair and establish bylaws, including
21 bylaws governing board membership and length of terms. Upon expiration of the
22 initial appointments and adoption of bylaws governing membership and length of
23 terms by the board, the board shall be self-perpetuating, and the appointment and
24 length of terms shall be made in accordance with the board's bylaws. Vacancies that
25 occur before the expiration of the initial appointments shall be filled by the
26 Governor for the remaining term of the vacancy.

27 (4) The board members shall receive no compensation but shall be reimbursed for

1 actual expenses incurred in accordance with state procedures and policies.

2 ➔Section 48. KRS 158.442 is amended to read as follows:

- 3 (1) The General Assembly hereby authorizes the establishment of the Center for School
4 Safety. The center's mission shall be to serve as the central point for data analysis;
5 research; dissemination of information about successful school safety programs,
6 research results, and new programs; and, in collaboration with the Department of
7 Education and others, to provide technical assistance for safe schools.
- 8 (2) To fulfill its mission, the Center for School Safety shall:
- 9 (a) Establish a clearinghouse for information and materials concerning school
10 violence prevention;
- 11 (b) Provide program development and implementation expertise and technical
12 support to schools, law enforcement agencies, and communities, which may
13 include coordinating training for administrators, teachers, students, parents,
14 and other community representatives;
- 15 (c) Analyze the data collected in compliance with KRS 158.444;
- 16 (d) Research and evaluate school safety programs so schools and communities are
17 better able to address their specific needs;
- 18 (e) Administer a school safety grant program for local districts as directed by the
19 General Assembly;
- 20 (f) Promote the formation of interagency efforts to address discipline and safety
21 issues within communities throughout the state in collaboration with other
22 postsecondary education institutions and with local juvenile delinquency
23 prevention councils;
- 24 (g) Prepare and disseminate information regarding best practices in creating safe
25 and effective schools;
- 26 (h) Advise the Kentucky Board of Education on administrative policies and
27 administrative regulations; and

1 (i) Provide an annual report by July 1 of each year to the Governor, the Kentucky
 2 Board of Education, and the Interim Joint Committee on Education regarding
 3 the status of school safety in Kentucky.

4 (3) The Center for School Safety shall be governed by a board of directors appointed by
 5 the Governor. Members shall consist of:

6 (a) The commissioner or a designee of the Department of Education;

7 (b) The commissioner or a designee of the Department of Juvenile Justice;

8 (c) The commissioner or a designee of the Department for Mental Health and
 9 Mental Retardation Services;

10 (d) The commissioner or a designee of the Department for Community Based
 11 Services;

12 (e) The secretary or a designee of the Education and Workforce Development
 13 Cabinet;

14 (f) A juvenile court judge;

15 (g) A local school district board of education member;

16 (h) A local school administrator;

17 (i) A school council parent representative;

18 (j) A teacher;

19 (k) A classified school employee; and

20 (l) A superintendent of schools who is a member of the Kentucky Association of
 21 School Administrators.

22 In appointing the board of education member, the school administrator, the school
 23 superintendent, the school council parent member, the teacher, and the classified
 24 employee, the Governor shall solicit recommendations from the following groups
 25 respectively: the Kentucky School Boards Association, the Kentucky Association of
 26 School Administrators, the Kentucky Association of School Councils, the Kentucky
 27 Education Association, and the Kentucky Education Support Personnel Association.

1 The initial board shall be appointed by July 15, 1998. The board shall hold its first
 2 meeting no later than thirty (30) days after the appointment of the members.

3 ➔Section 49. KRS 158.443 is amended to read as follows:

4 (1) Each nonstate-government employee member of the board of directors for the
 5 Center for School Safety shall serve a term of two (2) years and may be reappointed,
 6 but a member shall not serve more than two (2) consecutive terms.

7 (2) The members who are nonstate-government employees shall be reimbursed for
 8 travel, meals, and lodging and expenses relating to official duties of the board from
 9 funds appropriated for this purpose.

10 (3) The board of directors shall meet a minimum of four (4) times per year. The board
 11 of directors shall be attached to the Office of the Secretary of the Education and
 12 Workforce Development Cabinet for administrative purposes.

13 (4) The board of directors shall annually elect a chair and vice chair from the
 14 membership. The board may form committees as needed.

15 (5) Using a request-for-proposal process, the board of directors shall select a public
 16 university to administer the Center for School Safety for a period of not less than
 17 four (4) years unless funds for the center are not appropriated or the board
 18 determines that the university is negligent in carrying out its duties as specified in
 19 the request for proposal and contract. The initial request for proposals shall be
 20 issued not later than September 15, 1998. The board shall select a university no later
 21 than January 1, 1999. The university shall be the fiscal agent for the center and:

22 (a) Receive funds based on the approved budget by the board of directors and the
 23 General Assembly's appropriation for the center. The center shall operate
 24 within the fiscal policies of the university and in compliance with policies
 25 established by the board of directors per the request for proposal and contract;
 26 and

27 (b) Employ the staff of the center who shall have the retirement and employee

1 benefits granted other similar university employees.

2 (6) The board of directors shall annually approve:

3 (a) A work plan for the center;

4 (b) A budget for the center;

5 (c) Operating policies as needed; and

6 (d) Recommendations for grants, beginning in the 1999-2000 school year and
7 subsequent years, to local school districts and schools to assist in the
8 development of programs and individualized approaches to work with violent,
9 disruptive, or academically at-risk students, and consistent with provisions of
10 KRS 158.445.

11 (7) The board of directors shall prepare a biennial budget request to support the Center
12 for School Safety and to provide program funds for local school district grants.

13 (8) The board shall develop model interagency agreements between local school
14 districts and other local public agencies, including, among others, health
15 departments, departments of social services, mental health agencies, and courts, in
16 order to provide cooperative services and sharing of costs for services to students
17 who are at risk of school failure, are at risk of participation in juvenile crime, or
18 have been expelled from the school district.

19 ➔Section 50. KRS 158.792 is amended to read as follows:

20 (1) As used in this section and KRS 164.0207, unless the context requires otherwise:

21 (a) "Comprehensive reading program" means a program that emphasizes the
22 essential components of reading: phonemic awareness, phonics, fluency,
23 vocabulary, comprehension, and connections between writing and reading
24 acquisition and motivation to read.

25 (b) "Reading diagnostic assessment" means an assessment that identifies a
26 struggling reader and measures the reader's skills against established
27 performance levels in the essential components of reading. The purpose is to

1 screen for areas that require intervention in order for the student to learn to
2 read proficiently.

3 (c) "Reading intervention program" means short-term intensive instruction in the
4 essential skills necessary to read proficiently that is provided to a student by a
5 highly trained teacher. This instruction may be conducted one-on-one or in
6 small groups; shall be research-based, reliable, and replicable; and shall be
7 based on the ongoing assessment of individual student needs.

8 (d) "Reliable, replicable research" means objective, valid, scientific studies that:

- 9 1. Include rigorously defined samples of subjects that are sufficiently large
10 and representative to support the general conclusions drawn;
- 11 2. Rely on measurements that meet established standards of reliability and
12 validity;
- 13 3. Test competing theories, where multiple theories exist;
- 14 4. Are subjected to peer review before their results are published; and
- 15 5. Discover effective strategies for improving reading skills.

16 (2) The reading diagnostic and intervention fund is created to help teachers and library
17 media specialists improve the reading skills of struggling readers in the primary
18 program. The Department of Education, upon the recommendation of the Reading
19 Diagnostic and Intervention Grant Steering Committee, shall provide renewable,
20 two (2) year grants to schools to support teachers in the implementation of reliable,
21 replicable research-based reading intervention programs that use a balance of
22 diagnostic tools and instructional strategies that emphasize phonemic awareness,
23 phonics, fluency, vocabulary, comprehension, and connections between writing and
24 reading acquisition and motivation to read to address the diverse learning needs of
25 those students reading at low levels. Any moneys in the fund at the close of the
26 fiscal year shall not lapse but shall be carried forward to be used for the purposes
27 specified in this section.

1 (3) (a) The Kentucky Board of Education shall promulgate administrative
 2 regulations, based on recommendations from the secretary of the Education
 3 and Workforce Development Cabinet, the Reading Diagnostic and
 4 Intervention Grant Steering Committee established in KRS 158.794, and the
 5 Collaborative Center for Literacy Development established in KRS 164.0207
 6 to:

- 7 1. Identify eligible grant applicants, taking into consideration how the grant
 8 program described in this section will relate to other grant programs;
- 9 2. Specify the criteria for acceptable diagnostic assessments and
 10 intervention programs;
- 11 3. Specify the criteria for acceptable ongoing assessment of each child to
 12 determine his or her reading progress;
- 13 4. Establish the minimum evaluation process for an annual review of each
 14 grant recipient's program and progress;
- 15 5. Identify the annual data that must be provided from grant recipients;
- 16 6. Define the application review and approval process;
- 17 7. Establish matching requirements deemed necessary;
- 18 8. Define the professional development and continuing education
 19 requirements for teachers, library media specialists, administrators, and
 20 staff of grant recipients;
- 21 9. Establish the conditions for renewal of a two (2) year grant; and
- 22 10. Specify other conditions necessary to implement the purposes of this
 23 section.

24 (b) The board shall require that a grant applicant provide assurances that the
 25 following principles will be met if the applicant's request for funding is
 26 approved:

- 27 1. A research-based comprehensive schoolwide reading program will be

1 available;

2 2. Intervention services will supplement, not replace, regular classroom
3 instruction;

4 3. Intervention services will be provided to struggling primary program
5 readers within the school based upon ongoing assessment of their needs;
6 and

7 4. A system for informing parents of struggling readers of the available
8 family literacy services within the district will be established.

9 (4) In order to qualify for funding, the school council, or if none exists, the principal or
10 the superintendent of schools, shall allocate matching funds required by grant
11 recipients under subsection (3) of this section. Funding for professional
12 development allocated to the school council under KRS 160.345 and for continuing
13 education under KRS 158.070 may be used as part of the school's match.

14 (5) The Department of Education shall make available to schools:

15 (a) Information concerning successful, research-based comprehensive reading
16 programs, diagnostic tools for pre- and post-assessment, and intervention
17 programs, from the Collaborative Center for Literacy Development created
18 under KRS 164.0207;

19 (b) Strategies for successfully implementing early reading programs, including
20 professional development support and the identification of funding sources;
21 and

22 (c) A list of professional development providers offering teacher training related
23 to reading that emphasizes the essential components for successful reading:
24 phonemic awareness, phonics, fluency, vocabulary, comprehension, and
25 connections between writing and reading acquisition and motivation to read.

26 (6) The Department of Education shall submit a report to the Interim Joint Committee
27 on Education no later than September 1 of each year outlining the use of grant

1 funds. The report shall also include comparisons of the overall costs and
 2 effectiveness of intervention programs. The annual report for an odd-numbered year
 3 shall include an estimate of the cost to expand the reading diagnostic and
 4 intervention grant program.

5 ➔Section 51. KRS 158.842 is amended to read as follows:

6 (1) As used in KRS 158.840 to 158.844, unless the context requires otherwise:

7 (a) "Concepts" means mathematical ideas that serve as the basis for
 8 understanding mathematics;

9 (b) "Mathematics" means the curriculum of numbers and computations, geometry
 10 and measurements, probability and statistics, and algebraic ideas;

11 (c) "Mathematics coach" means a mathematics leader whose primary
 12 responsibility is to provide ongoing support for one (1) or more mathematics
 13 teachers. The role of the coach is to improve mathematics teaching practices
 14 by working with teachers in their classrooms, observing and providing
 15 feedback to them, modeling appropriate teaching practices, conducting
 16 workshops or institutes, establishing learning communities, and gathering
 17 appropriate and useful resources;

18 (d) "Mathematics diagnostic assessment" means an assessment that identifies a
 19 student at risk of failure in mathematics or a student with major deficits in
 20 numeracy and other mathematical concepts and skills;

21 (e) "Mathematics intervention program" means an intensive instructional program
 22 that is based on valid research and is provided by a highly trained teacher to
 23 specifically meet individual students needs;

24 (f) "Mathematics leader" means any educator with a specialization in
 25 mathematics who:

- 26 1. Serves in a supervisory capacity, such as mathematics department chair,
- 27 school-based mathematics specialist, or district mathematics supervisor

1 or coordinator; or

2 2. Regularly conducts or facilitates teacher professional development, such
3 as higher education faculty or other mathematics teachers;

4 (g) "Mathematics mentor" means an experienced mathematics coach who
5 typically works with beginning or novice teachers only. The responsibilities
6 and roles of the mentor are the same as those of the coach;

7 (h) "Numeracy" means the development of the basic concepts which include
8 counting, place value, addition and subtraction strategies, multiplication and
9 division strategies, and the concepts of time, money, and length. To be
10 numerate is to have and be able to use appropriate mathematical knowledge,
11 concepts, skills, intuition, and experience in relationship to every day life;

12 (i) "Relationships" means connections of mathematical concepts and skills within
13 mathematics; and

14 (j) "Skills" means actions of mathematics.

15 (2) The Committee for Mathematics Achievement is hereby created for the purposes of
16 developing a multifaceted strategic plan to improve student achievement in
17 mathematics at all levels of schooling, prekindergarten through postsecondary and
18 adult. At a minimum the plan shall address:

19 (a) Challenging curriculum that is aligned prekindergarten through postsecondary,
20 including consensus among high school teachers and postsecondary education
21 faculty about expectations, curriculum, and assessment;

22 (b) Attitudes and beliefs of teachers about mathematics;

23 (c) Teachers' knowledge of mathematics;

24 (d) Diagnostic assessment, intervention services, and instructional strategies;

25 (e) Shortages of teachers of mathematics, including incentives to attract strong
26 candidates to mathematics teaching;

27 (f) Statewide institutes that prepare cadres of mathematics leaders in local school

- 1 districts, which may include highly skilled retired mathematics teachers, to
- 2 serve as coaches and mentors in districts and schools;
- 3 (g) Cohesive continuing education options for experienced mathematics
- 4 classroom teachers;
- 5 (h) Closing the student achievement gap among various student subpopulations;
- 6 (i) Curriculum expectations and assessments of students among the various
- 7 school levels, prekindergarten, primary, elementary, middle, and high school;
- 8 (j) Content standards for adult education centers providing mathematics
- 9 curricula;
- 10 (k) Introductory postsecondary education mathematics courses that are
- 11 appropriate to the wide array of academic programs and majors;
- 12 (l) Research to analyze further the issues of transition from high school or GED
- 13 programs to postsecondary education mathematics; and
- 14 (m) The early mathematics testing program under KRS 158.803.

15 Other factors may be included in the strategic plan as deemed appropriate by the
 16 committee to improve mathematics achievement of Kentucky students.

17 (3) In carrying out its responsibility under subsection (2)(f) of this section, the
 18 committee shall:

- 19 (a) Design a statewide professional development program that includes summer
- 20 mathematics institutes at colleges and universities, follow-up, and school-
- 21 based support services, beginning no later than June 1, 2006, to prepare teams
- 22 of teachers as coaches and mentors of mathematics at all school levels to
- 23 improve student achievement. Teachers shall receive training in diagnostic
- 24 assessment and intervention. The statewide initiative shall be funded, based
- 25 on available funds, from the Teachers' Professional Growth Fund described in
- 26 KRS 156.553. The design shall:

- 27 1. Define the curricula focus;

- 1 2. Build on the expertise of specific colleges and universities;
- 2 3. Place emphasis on mathematics concepts, skills and relationships,
- 3 diagnostic assessment, intervention services, and instructional strategies;
- 4 4. Identify quality control measures for the delivery of each institute;
- 5 5. Establish evaluation procedures for the summer institutes and the other
- 6 professional development components;
- 7 6. Provide updates and networking opportunities for coaches and mentors
- 8 throughout the school year; and
- 9 7. Define other components within the initiative that are necessary to meet
- 10 the goal of increasing student achievement in mathematics;
- 11 (b) Require schools and districts approved to have participants in the mathematics
- 12 leader institutes to provide assurances that:
- 13 1. The district and schools have, or will develop, local mathematics
- 14 curricula and assessments that align with state standards for
- 15 mathematics;
- 16 2. There is a local commitment to build a cadre of mathematics leaders
- 17 within the district;
- 18 3. The district and participating schools will provide in-school support for
- 19 coaching and mentoring activities;
- 20 4. The mathematics teachers are willing to develop classroom assessments
- 21 that align with state assessments; and
- 22 5. Students who need modified instructional and intervention services will
- 23 have opportunity for continuing education services beyond the regular
- 24 school day, week, or year; and
- 25 (c) In addition to the conditions specified in paragraph (b) of this subsection, the
- 26 committee shall make recommendations to the Kentucky Department of
- 27 Education and the Kentucky Board of Education for criteria to be included in

1 administrative regulations promulgated by the board which define:

- 2 1. Eligible grant recipients, taking into consideration how this program
- 3 relates to other funded mathematics initiatives;
- 4 2. The application process and review;
- 5 3. The responsibilities of schools and districts, including but not limited to
- 6 matching funds requirements, released or extended time for coaches and
- 7 mentors during the school year, continuing education requirements for
- 8 teachers and administrators in participating schools, data to be collected,
- 9 and local evaluation requirements; and
- 10 4. Other recommendations requested by the Kentucky Department of
- 11 Education.

12 (4) The committee shall initially be composed of twenty-five (25) members as follows:

- 13 (a) The commissioner of education or his or her designee;
- 14 (b) The president of the Council on Postsecondary Education or his or her
- 15 designee;
- 16 (c) The president of the Association of Independent Kentucky Colleges and
- 17 Universities or his or her designee;
- 18 (d) The executive director of the Education Professional Standards Board or his
- 19 or her designee;
- 20 (e) The secretary of the Education and Workforce Development Cabinet or his or
- 21 her designee;
- 22 (f) A representative with a specialty in mathematics or mathematics education
- 23 who has expertise and experience in professional development, especially
- 24 with coaching and mentoring of teachers, from each of the nine (9) public
- 25 postsecondary education institutions defined in KRS 164.001. The
- 26 representatives shall be selected by mutual agreement of the president of the
- 27 Council on Postsecondary Education and the commissioner of education;

- 1 (g) Two (2) adult education instructors selected by the vice president for
2 Kentucky Adult Education;
- 3 (h) Two (2) elementary, two (2) middle, and two (2) high school mathematics
4 teachers, appointed by the board of the statewide professional education
5 association having the largest paid membership with approval from their
6 respective local principals and superintendents of schools; and
- 7 (i) Three (3) school administrators, with one (1) each representing elementary,
8 middle, and high school, appointed by the board of the statewide
9 administrators' association having the largest paid membership with approval
10 from their respective local superintendents of schools.

11 When the Center for Mathematics created under KRS 164.525 becomes operational,
12 the executive director of the center shall be added to the committee, which shall
13 then be composed of twenty-six (26) members. Appointments to the committee
14 shall be made no later than thirty (30) days following March 18, 2005, and the first
15 meeting of the committee shall occur no later than thirty (30) days following
16 appointment of the members.

- 17 (5) A majority of the full membership shall constitute a quorum.
- 18 (6) Each member of the committee, other than members who serve by virtue of their
19 positions, shall serve for a term of three (3) years or until a successor is appointed
20 and qualified, except that the initial appointments shall be made in the following
21 manner: six (6) members shall serve a one (1) year term, six (6) members shall
22 serve a two (2) year term, and eight (8) members shall serve a three (3) year term.
- 23 (7) A temporary chair of the committee shall be appointed prior to the first meeting of
24 the committee through consensus of the president of the Council on Postsecondary
25 Education and the commissioner of education, to serve ninety (90) days after his or
26 her appointment. Prior to the end of the ninety (90) days, the committee shall elect a
27 chair by majority vote. The temporary chair may be a nominee for the chair by

1 majority vote. Thereafter, a chair shall be elected each calendar year. An individual
2 may not serve as chair for more than three (3) consecutive years. The chair shall be
3 the presiding officer of the committee, and coordinate the functions and activities of
4 the committee.

5 (8) The committee shall be attached to the Kentucky Department of Education for
6 administrative purposes. The commissioner of education may contract with a
7 mathematics-trained professional to provide part-time staff support to the
8 committee. The commissioner of education and the president of the council shall
9 reach consensus in the selection of a person to fill the position. The person selected
10 shall have a graduate degree, a mathematics major, and teaching or administrative
11 experience in elementary and secondary education. The person shall not be a current
12 employee of any entity represented on the committee. The department shall provide
13 office space and other resources necessary to support the staff position and the work
14 of the committee.

15 (9) The committee, under the leadership of the chair, may organize itself into
16 appropriate subcommittees and work structures to accomplish the purposes of the
17 committee.

18 (10) Members of the committee shall serve without compensation but shall be
19 reimbursed for necessary travel and expenses while attending meetings at the same
20 per diem rate promulgated in administrative regulation for state employees under
21 provisions of KRS Chapter 45. Funds shall be provided school districts to cover the
22 cost of substitute teachers for those teachers on the committee at each district's
23 established rate for substitute teachers.

24 (11) If a vacancy occurs within the committee during its duration, the board of the
25 statewide professional education association having the largest paid membership or
26 the board of the statewide administrators association having the largest paid
27 membership or the president of the Council on Postsecondary Education, as

1 appropriate, shall appoint a person to fill the vacancy.

2 (12) The committee shall:

3 (a) Present a draft strategic plan addressing the requirements in subsection (1) of
4 this section and other issues that arose during the work of the committee to the
5 Education Assessment and Accountability Review Subcommittee no later than
6 August 2005;

7 (b) Present the strategic plan for improving mathematics achievement to the
8 Interim Joint Committee on Education by July 15, 2006, which shall include
9 any recommendations that require legislative action; and

10 (c) Provide a final written report of committee activities to the Interim Joint
11 Committee on Education and the Legislative Research Commission by
12 December 1, 2006.

13 (13) The committee shall have ongoing responsibility for providing advice and guidance
14 to policymakers in the development of statewide policies and in the identification
15 and allocation of resources to improve mathematics achievement. In carrying out
16 this responsibility, the committee shall periodically review the strategic plan and
17 make modifications as deemed appropriate and report those to the Interim Joint
18 Committee on Education.

19 (14) The committee shall collaborate with the Center for Mathematics to ensure that
20 there is ongoing identification of research-based intervention programs for K-12
21 students who have fallen behind in mathematics, rigorous mathematics curricula
22 that prepare students for the next level of schooling, research-based professional
23 development models that prepare teachers in mathematics and pedagogy, and
24 strategies for closing the gap between high school or GED and postsecondary
25 mathematics preparation.

26 ➔Section 52. KRS 158.844 is amended to read as follows:

27 (1) The mathematics achievement fund is hereby created to provide developmentally

1 appropriate diagnostic assessment and intervention services to students, primary
2 through grade 12, to help them reach proficiency in mathematics on the state
3 assessments under KRS 158.6453 and in compliance with the "No Child Left
4 Behind Act of 2001," 20 U.S.C. sec. 6301 et seq. as required under KRS 158.840.

5 (2) The grant funds may be used to support the implementation of diagnostic and
6 intervention services in mathematics. The use of funds may include: pay for
7 extended time for teachers, released time for teachers to serve as coaches and
8 mentors or to carry out other responsibilities needed in the implementation of
9 intervention services, payment of substitute teachers needed for the support of
10 mathematics teachers, purchase of materials needed for modification of instruction,
11 and other costs associated with diagnostic and intervention services or to cover
12 other costs deemed appropriate by the Kentucky Board of Education.

13 (3) The fund shall:

14 (a) Provide funding for the Center for Mathematics created in KRS 164.525 and
15 the costs of training selected teachers in the diagnostic assessment and
16 intervention skills that are needed to assist struggling students in the primary
17 program and other grade levels;

18 (b) Provide renewable, two (2) year local grants to school districts and for
19 purposes described in subsection (2) of this section; and

20 (c) Provide operational funding for the Committee for Mathematics Achievement
21 created in KRS 158.842.

22 (4) Any funds appropriated to the mathematics achievement fund that are specifically
23 designated by the General Assembly to support the Center for Mathematics shall be
24 appropriated to the Council on Postsecondary Education and distributed to the
25 university administering the center, as determined by the council under KRS
26 164.525.

27 (5) Any moneys in the fund at the close of a fiscal year shall not lapse but shall be

1 carried forward to be used for the purposes specified in this section.

2 (6) Any interest earnings of the fund shall become a part of the fund and shall not lapse.

3 (7) (a) Any funds appropriated to the mathematics achievement fund and specifically
4 designated by the General Assembly as funding for grants to local school
5 districts or to support the Committee for Mathematics Achievement shall be
6 administered by the Kentucky Department of Education.

7 (b) The Kentucky Board of Education shall promulgate administrative regulations
8 relating to the grants for local school districts based on recommendations from
9 the Committee for Mathematics Achievement, the secretary of the Education
10 and Workforce Development Cabinet, the commissioner of education, and the
11 Center for Mathematics established in KRS 164.525. The administrative
12 regulations shall:

- 13 1. Identify eligibility criteria for grant applicants;
- 14 2. Specify the criteria for acceptable diagnostic assessments and
15 intervention programs and coaching and mentoring programs;
- 16 3. Establish the minimum annual evaluation process for each grant
17 recipient;
- 18 4. Identify the annual data that must be provided from each grant recipient;
- 19 5. Define the application and approval process;
- 20 6. Establish matching fund requirements if deemed necessary by the board;
- 21 7. Define the obligations for professional development and continuing
22 education for teachers, administrators, and staff of each grant recipient;
- 23 8. Establish the conditions for renewal of a two (2) year grant; and
- 24 9. Specify other conditions necessary to implement the purposes of this
25 section.

26 (c) As part of the application process, the board shall require that a grant
27 applicant provide assurances that the following principles will be met if the

1 applicant's request for funding is approved:

- 2 1. Mathematics instruction will be standards-based and utilize research-
- 3 based practices;
- 4 2. Intervention and support services will supplement, not replace, regular
- 5 classroom instruction; and
- 6 3. Intervention services will be provided to primary program students and
- 7 other students who are at risk of mathematics failure within the school
- 8 based upon ongoing assessments of their needs.

9 (d) If matching funds are required, the school council or, if none exists, the
 10 principal or the superintendent of schools, shall allocate matching funds.
 11 Funding for professional development allocated to the school council under
 12 KRS 160.345 and for continuing education under KRS 158.070 may be used
 13 to provide a portion or all of a school's required match.

14 (e) The Department of Education shall make available to schools:

- 15 1. Information from the Center for Mathematics regarding diagnostic
- 16 assessment and intervention programs and coaching and mentoring
- 17 programs of proven-practice in meeting the needs of primary students
- 18 and other students who are at risk of failure;
- 19 2. Technical assistance to potential applicants and grant recipients;
- 20 3. A list of professional development providers offering teacher training in
- 21 diagnostic assessment and intervention strategies and coaching and
- 22 mentoring; and
- 23 4. Information from the Center for Mathematics on how to communicate to
- 24 parents effective ways of interacting with their children to improve their
- 25 mathematics concepts, skills, and understanding.

26 (f) The Department of Education shall submit a report to the Interim Joint
 27 Committee on Education no later than September 1 of each year outlining the

1 use of grant funds. By November 1, 2007, the Department of Education with
 2 input from the Committee for Mathematics Achievement and the Center for
 3 Mathematics shall conduct a statewide needs assessment of the resources
 4 needed in each school to help each child achieve proficiency in mathematics
 5 by the year 2014 and report to the Interim Joint Committee on Education an
 6 estimate of the cost and a specific timeline for meeting the goal established by
 7 the Commonwealth.

8 ➔Section 53. KRS 163.470 is amended to read as follows:

9 (1) There is created within the Education and Workforce Development Cabinet the
 10 Office for the Blind.

11 (2) The executive director shall be appointed by the secretary of the Education and
 12 Workforce Development Cabinet pursuant to KRS 12.050.

13 (3) The office shall be the state agency responsible for all rehabilitation services for the
 14 blind and the visually impaired and other services as deemed necessary. The office
 15 shall be the agency authorized to expend all state and federal funds designated for
 16 rehabilitation services for the blind and visually impaired. The Office of the
 17 Secretary of the Education and Workforce Development Cabinet is authorized as
 18 the state agency to receive all state and federal funds and gifts and bequests for the
 19 benefit of rehabilitation services for the blind and visually impaired. The State
 20 Treasurer is designated as the custodian of all funds and shall make disbursements
 21 for rehabilitation purposes upon certification by the executive director.

22 (4) (a) The Kentucky Office for the Blind State Rehabilitation Council is hereby
 23 created and established to accomplish the purposes and functions enumerated
 24 in the Rehabilitation Act of 1973, as amended. Members of the council shall
 25 be appointed by the Governor from recommendations submitted by the Office
 26 for the Blind consistent with the federal mandate to include a majority of
 27 individuals who are blind or visually impaired representing specified

1 organizations, service providers, and advocacy groups. The composition,
2 qualifications, and terms of service of the council shall conform to those
3 prescribed by the federal law. There shall be statewide representation on the
4 council.

5 (b) 1. Except as provided in subparagraph 2. of this paragraph, any vacancy
6 occurring in the membership of the Office for the Blind State
7 Rehabilitation Council shall be filled in the same manner as the original
8 appointment. The vacancy shall not affect the power of the remaining
9 members of the council.

10 2. The Governor may delegate the authority to fill a vacancy to the
11 remaining voting members of the council.

12 (c) Each member of the Office for the Blind State Rehabilitation Council may
13 receive a per diem of one hundred dollars (\$100), not to exceed six hundred
14 dollars (\$600) annually, for each regular or special meeting attended if the
15 member is not employed or must forfeit wages from other employment. Each
16 member may have travel expenses approved at the established state rate and
17 expenses reimbursed at the established state agency rate for services such as
18 personal assistance, child care, and drivers for attendance at council meetings,
19 and in the performance of duties authorized by the Kentucky Office for the
20 Blind State Rehabilitation Council. The per diem and expenses shall be paid
21 out of the federal funds appropriated under the Rehabilitation Act of 1973, as
22 amended.

23 (5) The office shall establish and implement policies and procedures for the carrying
24 out of the program of services for the blind.

25 (6) At the close of each biennium, the office shall prepare a financial report and present
26 it to the secretary of the Education and Workforce Development Cabinet and to the
27 Governor. The biennial report shall be published. The biennial report shall also

- 1 contain a precise review of the work of the office and contain necessary suggestions
2 for improvement.
- 3 (7) The office shall coordinate its functions with other appropriate public and private
4 agencies.
- 5 (8) The office shall perform all other duties as required of it by law.
- 6 (9) The executive director shall hire personnel as necessary to carry out the work of the
7 office and the provisions of KRS 163.450 to 163.470. Preference shall be given to
8 hiring qualified blind persons.
- 9 (10) There shall be created under the authority of the office, to be directed by a director
10 appointed by the secretary of the Education and Workforce Development Cabinet
11 pursuant to KRS 12.050, a Division of Consumer Services which shall provide
12 intake and rehabilitation counseling services; distribute or sell technical educational
13 and other aids to the blind; provide educational materials such as recorded texts,
14 braille or large-type texts, or such other materials as may be deemed necessary for
15 the education of the blind; research into the development of new technical aids for
16 the blind, mobility training, work evaluation, personal adjustment, independent
17 living, and other services as needed for blind adults, and services for the blind who
18 have other disabilities; and promote employment of the blind in public and private
19 sectors.
- 20 (11) There shall be established under the authority of the office, to be directed by a
21 director appointed by the secretary pursuant to KRS 12.050, the Division of
22 Kentucky Business Enterprise. This division shall manage and supervise the
23 Vending Facilities Program and license qualified blind persons as vendors. In
24 connection therewith, the office shall be authorized to own or lease vending
25 equipment for the operation of vending facilities in federal, state, private, and other
26 buildings. The set-aside charges levied shall comply with the existing federal
27 regulations as specified in 34 CFR 395.9. One (1) or more facility placement agents

1 shall be employed to locate and establish additional vending facilities. The Office
 2 for the Blind shall make such surveys as may be deemed necessary to determine the
 3 vending facility opportunities for blind vendors in state buildings or on other
 4 property owned, leased, or otherwise occupied by the state government and shall
 5 install vending facilities in suitable locations on such property for the use of the
 6 blind. All of the net income from vending machines which are on the same property
 7 as a vending facility shall be paid to the blind vendor of the vending facility.
 8 Whenever there exists a conflict of interest between state agencies seeking to vend
 9 merchandise on the same state property, the agencies shall negotiate a fair
 10 agreement which shall protect the interest of both from unreasonable competition.
 11 The agreement shall be submitted to the custodial authority having jurisdiction over
 12 the property for approval. Provided, however, that in all situations the blind vendor
 13 shall be permitted to vend all items of merchandise customarily sold at similar
 14 vending facilities.

15 (12) The Office for the Blind, at all times, shall be authorized to provide industrial
 16 evaluation, training, and employment. The office shall provide staff services which
 17 shall include staff development and training, program development and evaluation,
 18 and other staff services as may be deemed necessary.

19 (13) The provisions of any other statute notwithstanding, the executive director is
 20 authorized to use receipt of funds from the Social Security reimbursement program
 21 for a direct service delivery staff incentive program. Incentives may be awarded if
 22 case service costs are reimbursed for job placement of Social Security or
 23 Supplemental Security Income recipients at the Substantial Gainful Activity (SGA)
 24 level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions
 25 and criteria as are established by the federal reimbursement program.

26 ➔Section 54. KRS 163.506 is amended to read as follows:

27 (1) The Commission on the Deaf and Hard of Hearing shall consist of:

- 1 (a) Seven (7) members appointed by the Governor as follows:
 - 2 1. One (1) audiologist chosen from a list of three (3) names submitted by
 - 3 the Kentucky Speech and Hearing Association;
 - 4 2. Three (3) hard of hearing or deaf persons chosen from a list of six (6)
 - 5 names submitted by the Kentucky Association of the Deaf;
 - 6 3. One (1) deaf or hard of hearing person chosen from a list of three (3)
 - 7 names submitted by the Kentucky Chapter of the Alexander Graham
 - 8 Bell Association for the Deaf, the initial appointment to be for a one (1)
 - 9 year term;
 - 10 4. One (1) hard of hearing or deaf person chosen from a list of three (3)
 - 11 names submitted by the Kentucky members of Self Help for Hard of
 - 12 Hearing People, the initial appointment to be for a two (2) year term;
 - 13 and
 - 14 5. One (1) deaf, late-deafened, or hard of hearing person chosen from a list
 - 15 of three (3) names submitted by the American Association of Retired
 - 16 Persons, the initial appointment to be for a two (2) year term;
- 17 (b) One (1) representative of the Cabinet for Health and Family Services
- 18 appointed by the secretary;
- 19 (c) The secretary of the Education and Workforce Development Cabinet or his
- 20 designee;
- 21 (d) The president of the Kentucky Association for the Deaf or his designee;
- 22 (e) The president of the Kentucky Registry of Interpreters for the Deaf or his
- 23 designee; and
- 24 (f) Three (3) persons appointed by the Commission on the Deaf and Hard of
- 25 Hearing as constituted in subsections (1)(a) through (1)(e) of this section,
- 26 appointed as follows:
 - 27 1. One (1) parent of a hard of hearing or deaf child;

1 2. One (1) representative of a public or private organization providing
2 consistent services to the deaf and hard of hearing; and

3 3. One (1) member at large.

4 (2) All members shall serve three (3) year terms except state officials or their designees
5 who shall serve during their terms of office. Of the members appointed pursuant to
6 subsection (1)(a)2. through (1)(a)5. and subsection (1)(f) of this section, no more
7 than three (3) of those members shall have terms beginning in the same year. Any
8 person who is a member of the commission on July 13, 1990, shall serve until he
9 resigns or until his term expires.

10 (3) Each member of the commission shall be reimbursed for his necessary travel and
11 other expenses actually incurred in the discharge of his duties.

12 ➔Section 55. KRS 171.347 is amended to read as follows:

13 There is created the Commonwealth of Kentucky Abraham Lincoln Bicentennial
14 Commission, which shall be attached to the Kentucky Historical Society for
15 administrative purposes. The commission shall be composed of twenty (20) members, as
16 follows:

17 (1) Two (2) members of the House of Representatives, appointed by the Speaker of the
18 House;

19 (2) Two (2) members of the Senate, appointed by the President of the Senate;

20 (3) The secretary of the Education **and Workforce Development** Cabinet, or his or her
21 designee;

22 (4) One (1) member from the Commerce Cabinet, appointed by the secretary of that
23 cabinet;

24 (5) One (1) member from the Kentucky Historical Society, appointed by the director of
25 that agency;

26 (6) One (1) member from the Kentucky Heritage Council, appointed by the executive
27 director of that agency;

- 1 (7) One (1) member from the Kentucky African-American Heritage Commission,
2 appointed by the head of that agency;
- 3 (8) One (1) member from the Kentucky Humanities Council, appointed by the
4 executive director of that agency;
- 5 (9) One (1) member from the Abraham Lincoln Bicentennial Commission established
6 by the United States Congress, appointed by the concurrence of the chairs of that
7 agency;
- 8 (10) The Larue County judge/executive, or his or her designee;
- 9 (11) One (1) member from the Abraham Lincoln Birthplace, appointed by the
10 superintendent of that national historic site;
- 11 (12) One (1) member from the Lincoln Museum in Hodgenville, appointed by the
12 president of that agency;
- 13 (13) One (1) member from the Mary Todd Lincoln House in Lexington, appointed by the
14 head of that agency;
- 15 (14) One (1) member from the Farmington Historic Home museum in Louisville,
16 appointed by the head of that agency; and
- 17 (15) Four (4) citizen members from the state at large with a demonstrated interest in
18 history and substantial knowledge and appreciation of Abraham Lincoln, appointed
19 by the Governor.

20 The chair of the commission shall be elected from among the membership by the
21 commission members.

22 ➔Section 56. KRS 171.420 is amended to read as follows:

- 23 (1) The State Archives and Records Commission is hereby created and shall be a
24 seventeen (17) member body constituted as follows:
 - 25 (a) The state librarian or his designee, who shall be the chairman of the
26 commission;
 - 27 (b) The secretary of the Education and Workforce Development Cabinet or his

- 1 designee;
- 2 (c) The Auditor of Public Accounts or his designee;
- 3 (d) The Chief Justice of the Supreme Court or his designee;
- 4 (e) The director of the Legislative Research Commission or his designee;
- 5 (f) The Attorney General or his designee;
- 6 (g) The director of the Office for Policy and Management in the Office of the
- 7 Controller or his designee;
- 8 (h) The executive director of the Commonwealth Office of Technology or her or
- 9 his designee;
- 10 (i) One (1) member appointed by the Governor from a list of three (3) persons
- 11 submitted by the president of the University of Kentucky;
- 12 (j) One (1) member appointed by the Governor from a list of three (3) persons
- 13 submitted by the president of the Kentucky Historical Society;
- 14 (k) One (1) member appointed by the Governor from a list of three (3) persons
- 15 submitted by the president of the Kentucky Library Association;
- 16 (l) One (1) member appointed by the Governor from a list of seven (7) persons
- 17 with one (1) name submitted by each of the presidents of the state universities
- 18 and colleges;
- 19 (m) Four (4) citizens at large; and
- 20 (n) One (1) member appointed by the Governor from a list of three (3) persons,
- 21 with one (1) name submitted by each of the presidents of the Kentucky League
- 22 of Cities, the Kentucky Association of Counties, and the Kentucky
- 23 Association of School Administrators.
- 24 (2) Vacancies shall be filled by the Governor in the same manner as initial
- 25 appointments are made. All members shall serve for a term of four (4) years,
- 26 provided that one (1) of the initial appointments shall be for a term of four (4) years,
- 27 one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year.

- 1 (3) The commission shall advise the Department for Libraries and Archives on matters
 2 relating to archives and records management. The commission shall have the
 3 authority to review and approve schedules for retention and destruction of records
 4 submitted by state and local agencies. In all cases, the commission shall determine
 5 questions which relate to destruction of public records, and their decision shall be
 6 binding on the parties concerned and final, except that the commission may
 7 reconsider or modify its actions upon the agreement of a simple majority of the
 8 membership present and voting.

9 ➔Section 57. KRS 171.814 is amended to read as follows:

10 An Underground Railroad Advisory Council shall be established within the commission.

11 (1) The council shall consist of thirteen (13) members, as follows:

- 12 (a) Secretary of the Education and Workforce Development Cabinet, or designee;
 13 (b) Secretary of the Commerce Cabinet, or designee;
 14 (c) Secretary of the Transportation Cabinet, or designee;
 15 (d) Director of the Kentucky Historical Society, or designee;
 16 (e) State historic preservation officer of the Kentucky Heritage Council, or
 17 designee;
 18 (f) Chair of the commission or designee;
 19 (g) Director of the Underground Railroad Institute at Georgetown College, or
 20 designee;
 21 (h) Two (2) members of the General Assembly who hold an interest in the
 22 Underground Railroad, one (1) appointed by the President of the Senate and
 23 one (1) appointed by the Speaker of the House of Representatives;
 24 (i) Two (2) at-large representatives who hold an interest in the protection,
 25 preservation, and promotion of the history of the Underground Railroad in
 26 Kentucky, appointed by the Governor;
 27 (j) One (1) member of the board or staff of the National Underground Railroad

1 Freedom Center who resides within a county of the Northern Kentucky Area
2 Development District; and

3 (k) One (1) member of the board or staff of the National Underground Railroad
4 Museum who resides within a county of the Buffalo Trace Area Development
5 District.

6 (2) The duties of the council shall be to:

7 (a) Advise and assist the commission with respect to issues and opportunities
8 related to the Underground Railroad; and

9 (b) Annually review and make recommendations to the commission on the annual
10 report and plan for future action.

11 (3) Members of the council shall be appointed for four (4) year terms, except that initial
12 appointments for the two (2) at-large members shall be made so that one (1)
13 member is appointed for two (2) years, and one (1) member is appointed for three
14 (3) years. Sitting members shall be eligible for reappointment.

15 (4) The chair of the commission shall serve as chair of the council.

16 (5) The council shall meet annually or more frequently at the request of the chair.

17 (6) Six (6) members shall constitute a quorum for conducting business.

18 (7) In the event of a vacancy, the appropriate appointing entity shall appoint a
19 replacement member who shall hold office during the remainder of the term so
20 vacated.

21 (8) Members of the council shall serve without compensation.

22 ➔Section 58. KRS 173.810 is amended to read as follows:

23 (1) The Kentucky State Advisory Council on Libraries is hereby created and shall be
24 composed of twenty-one (21) members, appointed by the Governor for a term of
25 four (4) years, except that of the twenty-one (21) members initially appointed, six
26 (6) shall serve terms of four (4) years, five (5) shall serve terms of three (3) years,
27 five (5) shall serve terms of two (2) years, and five (5) shall serve terms of one (1)

1 year. The Governor of the Commonwealth of Kentucky shall appoint from this
2 membership a chairman and co-chairman to serve for periods of two (2) years each.

3 The council shall be attached to the Education and Workforce Development
4 Cabinet for administrative purposes.

5 (2) Of the twenty-one (21) members, four (4) shall represent public libraries, two (2)
6 shall represent school libraries, two (2) shall represent college or university
7 libraries, four (4) shall represent special and institutional libraries, two (2) shall
8 represent library users with disabilities, and seven (7) members, at least one (1) of
9 whom shall be representative of disadvantaged persons, shall represent library users.

10 (3) Vacancies shall be filled by the Governor in the same manner as initial
11 appointments are made.

12 (4) Members of the Kentucky State Advisory Council on Libraries shall be
13 compensated for actual and necessary expenses.

14 (5) The council shall be the state advisory council on libraries for the purposes of
15 advising the Kentucky Department for Libraries and Archives on federal and state
16 library development issues.

17 ➔Section 59. KRS 177.109 is amended to read as follows:

18 The Transportation and Tourism Interagency Committee shall have but not be limited to
19 the following duties and responsibilities:

20 (1) Review Kentucky's signage laws, administrative regulations, and policies
21 implementing the federal "Manual on Uniform Traffic Control Devices" and submit
22 any proposed revisions to the secretary of the Transportation Cabinet;

23 (2) Seek public comment on Kentucky's signage laws, administrative regulations, and
24 policies;

25 (3) Advise the Transportation Cabinet on the scenic byways and highways program;

26 (4) Review and make recommendations on requests for highway signage from tourism-
27 related entities;

- 1 (5) Coordinate development of the tourism information potential of welcome centers
2 and rest areas through such means as interactive videos, information kiosks, and
3 highway advisory radio transmitters, as well as other innovative methods which
4 may be identified by the committee;
- 5 (6) Monitor developments across the United States relating to billboards and official
6 signs;
- 7 (7) Report to the secretary of the Transportation Cabinet and to the secretary of the
8 Commerce Cabinet on issues of mutual interest to the cabinets;
- 9 (8) Serve as an advisory committee on issues identified by the secretary of the
10 Transportation Cabinet and secretary of the Commerce Cabinet; and
- 11 (9) Report committee recommendations to the secretary of the Transportation Cabinet,
12 the secretary of the Commerce Cabinet, the secretary of the Education and
13 Workforce Development Cabinet, and the secretary of the Executive Cabinet.

14 ➔Section 60. KRS 194A.085 is amended to read as follows:

- 15 (1) The Governor's Office of Wellness and Physical Activity is hereby established to
16 implement a health, wellness, and fitness program for Kentucky and to promote a
17 healthy lifestyle for all citizens of the Commonwealth. The office shall be headed
18 by an executive director, who shall be appointed by the Governor in accordance
19 with KRS 12.040 and shall serve at the pleasure of and under the direction of the
20 Governor.
- 21 (2) The office's duties, rights, and responsibilities shall include but not be limited to the
22 following:
 - 23 (a) Create a strategic plan to design Kentucky's wellness efforts;
 - 24 (b) Implement and operate the Governor's Challenge Program;
 - 25 (c) Provide assistance to the Governor's Council on Wellness and Physical
26 Activity in accomplishing its mission and charge;
 - 27 (d) Identify and assess the most common challenges, existing resources, and

- 1 services within the state and make recommendations to the Governor, state
 2 Legislature, or other governing bodies regarding the demand and effectiveness
 3 of present services and improvements that should be addressed;
- 4 (e) Develop, implement, and coordinate all physical activity and wellness related
 5 programs for residents of the Commonwealth;
- 6 (f) Develop a comprehensive statewide strategy that coordinates state and local
 7 efforts to promote wellness and physical activity;
- 8 (g) Coordinate the efforts of the Governor's Council on Wellness and Physical
 9 Activity with the efforts of the Education and Workforce Development
 10 Cabinet, the Cabinet for Health and Family Services, and the Personnel
 11 Cabinet;
- 12 (h) Design information campaigns to raise public awareness and promote citizen
 13 engagement regarding the critical nature of wellness in the state and to
 14 increase the will to make quality resources and services more widely
 15 available; and
- 16 (i) Promulgate any administrative regulations necessary to carry out the
 17 provisions of this chapter.
- 18 (3) The executive director may, at the request of the Governor or any cabinet secretary,
 19 serve as a designee on boards, commissions, task forces, or other committees
 20 addressing issues relating to wellness and physical activity.
- 21 (4) The Finance and Administration Cabinet, the Governor's Office for Policy and
 22 Management, the Education and Workforce Development Cabinet, and the
 23 Personnel Cabinet shall take all steps necessary to effectuate the provisions of this
 24 section.
- 25 ➔Section 61. KRS 200.700 is amended to read as follows:
- 26 (1) The Early Childhood Development Authority is established as a public agency and
 27 political subdivision of the Commonwealth with all powers, duties, and

responsibilities conferred upon it by statute and essential to perform its functions including but not limited to employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Department of Education for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following sixteen (16) members:

- (a) The director of the Division of Early Childhood Development, who shall serve as chair;
- (b) The secretary of the Education and Workforce Development Cabinet;
- (c) The secretary of the Cabinet for Health and Family Services;
- (d) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;
- (e) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;
- (f) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;
- (g) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and
- (h) One (1) early childhood development advocate.

(3) No later than thirty (30) days after July 14, 2000, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for

1 initial appointment by the Governor as private sector members to the authority:

- 2 (a) The Kentucky AFL-CIO;
- 3 (b) The Kentucky Chamber of Commerce;
- 4 (c) The Kentucky League of Cities;
- 5 (d) The Kentucky Medical Association;
- 6 (e) The Louisville Urban League and Lexington Urban League;
- 7 (f) The Kentucky County Judge/Executives Association; and
- 8 (g) The Kentucky Council on Postsecondary Education.

9 (4) The Governor shall select the private sector members of the authority by selecting
 10 one (1) nominee from each list of the three (3) nominees submitted to the Governor
 11 by each organization listed under subsection (3) of this section. The Governor shall
 12 fill a vacancy occurring before the expiration of the appointed term from the
 13 appropriate list of nominees. If there are no nominees remaining on the appropriate
 14 list, the Governor shall request a list of additional nominees from the appropriate
 15 organization.

16 (5) (a) The initial terms of the private sector and citizen at-large members of the
 17 authority shall be for:

- 18 1. One (1) year for two (2) of the initial terms;
- 19 2. Two (2) years for three (3) of the initial terms;
- 20 3. Three (3) years for two (2) of the initial terms; and
- 21 4. Four (4) years for four (4) of the initial appointments.

22 (b) All succeeding appointments shall be for four (4) years from the expiration
 23 date of the preceding appointment.

24 (c) Members shall serve until a successor has been appointed.

25 (6) Private sector and citizen at-large members shall serve without compensation but
 26 shall be reimbursed for reasonable and necessary expenses.

27 (7) In making appointments to the authority, the Governor shall assure broad

1 geographical, ethnic, and gender diversity representation from the major sectors of
 2 Kentucky's early childhood development community. In filling vacancies, the
 3 Governor shall attempt to assure the continuing representation on the authority of
 4 broad constituencies of Kentucky's early childhood development community.

5 (8) Upon the expiration of the term of any member, the governing body of the
 6 organization that made the original recommendation shall recommend three (3)
 7 persons, at least one (1) of whom shall be male and at least one (1) of whom shall
 8 be female, between sixty (60) and thirty (30) days before the expiration of the term
 9 of any authority member who is appointed as a result of a previous
 10 recommendation. The Governor shall, during March of the year that any
 11 organization is to recommend three (3) persons, request the organization to
 12 recommend three (3) persons for possible appointment to the authority. If there is
 13 no response, the Governor shall make the appointment from the population of the
 14 Commonwealth.

15 (9) The authority shall meet at least quarterly and at other times upon call of the chair
 16 or a majority of the authority.

17 (10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem
 18 set by the authority, and be reimbursed for their expenses in accordance with state
 19 travel expense and reimbursement administrative regulations.

20 ➔Section 62. KRS 200.703 is amended to read as follows:

21 (1) The authority shall establish priorities for programs and the expenditure of funds
 22 that include but are not limited to the following:

23 (a) Implementation of public health initiatives identified by the General
 24 Assembly;

25 (b) Provision of preconceptional and prenatal vitamins, with priority for folic acid
 26 for the prevention of neural tube defects;

27 (c) Voluntary immunization for children not covered by public or private health

- 1 insurance;
- 2 (d) Availability of high-quality, affordable early child-care and education options;
- 3 and
- 4 (e) Increased public awareness of the importance of the early childhood years for
- 5 the well-being of all Kentucky's citizens.
- 6 (2) The authority shall develop a state plan on a biennial basis that identifies early
- 7 childhood development funding priorities. Every two (2) years the authority shall
- 8 review its priorities and make necessary adjustments to its state plan. The state plan
- 9 shall incorporate priorities included in "KIDS NOW: Kentucky Invests in
- 10 Developing Success, a Report from the Governor's Early Childhood Task Force,
- 11 November 1999," and recommendations identified by the community early
- 12 childhood councils. The authority shall file a report on the state plan with the
- 13 Governor and the Legislative Research Commission by July 15 of odd-numbered
- 14 years.
- 15 (3) Programs funded by the authority shall be implemented by the appropriate agencies
- 16 within the Cabinet for Health and Family Services, the Education and Workforce
- 17 Development Cabinet, the Finance and Administration Cabinet, or other appropriate
- 18 administrative agency.
- 19 (4) The authority shall assure that a public hearing is held on the expenditure of funds.
- 20 Advertisement of the public hearing shall be published at least once but may be
- 21 published two (2) more times, if one (1) publication occurs not less than seven (7)
- 22 days nor more than twenty-one (21) days before the scheduled date of the public
- 23 hearing.
- 24 (5) The authority shall promulgate administrative regulations in accordance with KRS
- 25 Chapter 13A to:
- 26 (a) Coordinate and improve early childhood development services, outcomes, and
- 27 policies;

- 1 (b) Establish procedures that relate to its governance;
- 2 (c) Designate service areas of the Commonwealth where the community early
3 childhood councils may be established to identify and address the early
4 childhood development needs of young children and their families for the
5 communities that they serve;
- 6 (d) Establish procedures that relate to the monitoring of grants, services, and
7 activities of the community early childhood councils and their governance;
- 8 (e) Establish procedures for accountability and measurement of the success of
9 programs that receive funds from the authority; and
- 10 (f) Establish standards for the payment of funds to a designated service provider
11 and grantee of a community early childhood council. These standards shall
12 include requirements relating to:
 - 13 1. The financial management of funds paid to grantees;
 - 14 2. The maintenance of records; and
 - 15 3. An independent audit of the use of grant funds.
- 16 (6) The authority may disband or suspend a council, and may remove one (1) or more
17 members for nonperformance or malfeasance. The authority may also recover funds
18 that have been determined by the authority to have been misappropriated or
19 misspent in relation to a grant award.
- 20 (7) An appeal to the authority may be made by a council as to a decision made by the
21 authority on the disbanding or suspension of a council, service provider, or grantee
22 on a determination that funds have been misappropriated or misspent and are
23 subject to recovery. The appeal shall be conducted in accordance with KRS Chapter
24 13B.
- 25 (8) The authority, councils established by the authority, and initiatives funded by the
26 authority with expenditures from the early childhood development fund shall expire
27 when:

- 1 (a) Funds are no longer designated to the Commonwealth from the master
2 settlement agreement signed on November 22, 1998, between the participating
3 tobacco manufacturers and the forty (40) settling states or related federal
4 legislation; or
- 5 (b) Funds are no longer designated to the early childhood development fund from
6 gifts, grants, or federal funds to fund the authority, the councils established by
7 the authority, or any programs that had been funded by the authority with
8 expenditures from the early childhood development fund.
- 9 (9) (a) The authority shall establish a Healthy Babies Work Group, consisting of
10 representatives from the Cabinet for Health and Family Services; public
11 schools; local libraries; the Kentucky March of Dimes; family resource
12 centers; agencies that provide benefits under the Special Supplementation
13 Food Program for Women, Infants, and Children; the Folic Acid Awareness
14 Campaign; physicians; secondary health education and consumer sciences
15 teachers; the Spina Bifida Association of Kentucky; and other persons as
16 appropriate. Representatives shall reflect the geographic, racial, and gender
17 diversity of the Commonwealth.
- 18 (b) The Healthy Babies Work Group shall collaborate on development and
19 implementation of a public awareness campaign to inform the citizens of the
20 Commonwealth about the benefits of good nutrition, folic acid, smoking
21 cessation, and healthy lifestyle choices that lead to healthy babies, the effects
22 of alcohol and substance abuse on fetal and early childhood development, and
23 the need for a vision examination of children at age three (3). The work group
24 shall work with local health departments for the vision examination outreach
25 program.
- 26 (10) The authority shall work with local entities, including but not limited to health
27 departments and service providers, to establish to the extent of available funding a

vision examination program for children who are not eligible for the Kentucky Children's Health Insurance Program or Medicaid, and who do not have insurance coverage for a vision examination. The authority shall provide that primary students, regardless of age, who are having difficulty with reading may be referred and receive a second vision examination as described in KRS 156.160 at no cost to the parent.

- (11) The authority shall develop a request for proposal process by which local early childhood councils may request any funding appropriated to the authority for use by the councils.

➔Section 63. KRS 210.031 is amended to read as follows:

- (1) The cabinet shall establish an advisory committee of sixteen (16) members to advise the Department for Mental Health and Mental Retardation Services of the need for particular services for persons who are deaf or hard-of-hearing.

(a) At least eight (8) members shall be deaf or hard-of-hearing and shall be appointed by the secretary. Four (4) deaf or hard-of-hearing members, representing one (1) of each of the following organizations, shall be appointed from a list of at least two (2) nominees submitted from each of the following organizations:

1. The Kentucky Association of the Deaf;
2. The A.G. Bell Association;
3. The Kentucky School for the Deaf Alumni Association; and
4. Self Help for the Hard of Hearing.

The remaining four (4) deaf or hard-of-hearing members shall be appointed by the secretary from a list of at least eight (8) nominees submitted by the Kentucky Commission on the Deaf and Hard of Hearing.

- (b) One (1) member shall be a family member of a deaf or hard-of-hearing consumer of mental health services and shall be appointed by the secretary

1 from a list of nominees accepted from any source.

2 (c) The head of each of the following entities shall appoint one (1) member to the
3 advisory committee:

- 4 1. The Cabinet for Health and Family Services, Department for Mental
5 Health and Mental Retardation Services;
- 6 2. The Education and Workforce Development Cabinet, Office of
7 Vocational Rehabilitation;
- 8 3. The Cabinet for Health and Family Services, Department for Aging and
9 Independent Living;
- 10 4. The Education and Workforce Development Cabinet, Commission on
11 the Deaf and Hard of Hearing;
- 12 5. The Kentucky Registry of Interpreters for the Deaf; and
- 13 6. A Kentucky School for the Deaf staff person involved in education.

14 (d) The remaining member shall be a representative of a regional mental
15 health/mental retardation board, appointed by the commissioner of the
16 Department for Mental Health and Mental Retardation Services from a list
17 composed of two (2) names submitted by each regional mental health/mental
18 retardation board.

19 (2) Of the members defined in subsection (1)(a) and (b) of this section, three (3) shall
20 be appointed for a one (1) year term, three (3) shall be appointed for a two (2) year
21 term, and three (3) shall be appointed for a three (3) year term; thereafter, they shall
22 be appointed for three (3) year terms. The members defined under subsection (1)(c)
23 and (d) of this section shall serve with no fixed term of office.

24 (3) The members defined under subsection (1)(a) and (b) of this section shall serve
25 without compensation but shall be reimbursed for actual and necessary expenses;
26 the members defined under subsection (1)(c) and (d) of this section shall serve
27 without compensation or reimbursement of any kind.

1 (4) The Department for Mental Health and Mental Retardation Services shall make
2 available personnel to serve as staff to the advisory committee.

3 (5) The advisory committee shall meet quarterly at a location determined by the
4 committee chair.

5 (6) (a) The advisory committee shall prepare a biennial report which:

6 1. Describes the accommodations and the mental health, mental
7 retardation, development disability, and substance abuse services made
8 accessible to deaf and hard-of-hearing persons;

9 2. Reports the number of deaf or hard-of-hearing persons served;

10 3. Identifies additional service needs for the deaf and hard-of-hearing; and

11 4. Identifies a plan to address unmet service needs.

12 (b) The report shall be submitted to the secretary, the commissioner of the
13 Department for Mental Health and Mental Retardation Services, and the
14 Interim Joint Committee on Health and Welfare by July 1 of every odd-
15 numbered year.

16 ➔Section 64. KRS 247.804 is amended to read as follows:

17 An Agritourism Advisory Council shall be established within the Department of
18 Agriculture to advise and assist the Office of Agritourism. The Agritourism Advisory
19 Council shall be composed of:

20 (1) One (1) representative from each of the following entities:

21 (a) Department of Agriculture, appointed by the Commissioner of Agriculture;

22 (b) Commerce Cabinet, appointed by the secretary of the cabinet;

23 (c) Education ***and Workforce Development*** Cabinet, appointed by the secretary
24 of the cabinet;

25 (d) Department of Fish and Wildlife Resources Commission, appointed by the
26 commissioner of the department;

27 (e) University of Kentucky Cooperative Extension Service;

- 1 (f) Kentucky Tourism Council;
- 2 (g) Kentucky Farm Bureau;
- 3 (h) Kentucky Association of Fairs and Horse Shows;
- 4 (i) Southern and Eastern Kentucky Tourism Development Association;
- 5 (j) Licking River Valley Resource Conservation and Development Council;
- 6 (k) Buffalo Trace Covered Bridge Authority;
- 7 (l) Kentucky Chamber of Commerce;
- 8 (m) Kentucky Council of Area Development Districts; and
- 9 (n) Jackson Purchase Resource Conservation and Development Foundation, Inc.;
- 10 (2) The Governor, or a designee;
- 11 (3) Two (2) members of the General Assembly who hold an interest in agriculture, one
- 12 (1) appointed by the President of the Senate and one (1) appointed by the Speaker of
- 13 the House of Representatives; and
- 14 (4) Nine (9) representatives of agriculture or the agritourism industry, appointed by the
- 15 Commissioner of Agriculture from a list of candidates compiled by the tourism
- 16 regions as set forth in KRS 247.802(4). Each tourism region shall submit three (3)
- 17 candidates with a business interest in agritourism who reside within that region, and
- 18 the Commissioner shall appoint one (1) candidate from each region from those
- 19 names submitted.

20 ➔Section 65. KRS 281.870 is amended to read as follows:

- 21 (1) There is hereby created a Coordinated Transportation Advisory Committee, also
- 22 known as the "CTAC", that is to be composed of designated members of the
- 23 cabinet, the Cabinet for Health and Family Services, and the Education and
- 24 Workforce Development Cabinet.
- 25 (2) Members of the CTAC shall serve terms as determined by each respective cabinet.
- 26 The CTAC shall meet at least once a month, but may meet more frequently if
- 27 desired, and shall maintain a written record of all meetings and actions taken. In all

1 proceedings of the CTAC and in all actions taken by the CTAC, the cabinet and the
 2 Cabinet for Health and Family Services shall each have two (2) votes, and the
 3 Education Cabinet shall have one (1) vote. A quorum of the CTAC shall be required
 4 to conduct any official business.

5 (3) The staff of the cabinet's Office of Transportation Delivery shall provide
 6 administrative support to the CTAC. The executive director of the Office of
 7 Transportation Delivery shall set the agenda for meetings of the CTAC. The Office
 8 of Transportation Delivery may promulgate administrative regulations under KRS
 9 Chapter 13A governing the human service transportation delivery program on
 10 behalf of the CTAC. The cabinet shall promulgate administrative regulations under
 11 KRS Chapter 13A to specify the duties and responsibilities of the CTAC.

12 ➔Section 66. KRS 281.872 is amended to read as follows:

13 (1) The cabinet shall employ a pool of program coordinators. Each program coordinator
 14 shall be a state employee and reside in the cabinet.

15 (2) The program coordinator shall initially investigate all complaints regarding
 16 recipients, subcontractors, and the broker for the area and attempt to immediately
 17 resolve the problem. All complaints relating to Medicaid fraud or abuse shall be
 18 forwarded by the cabinet to the Cabinet for Health and Family Services. The
 19 program coordinator shall further be responsible for assisting a person with a
 20 complaint as required in subsection (4) of this section.

21 (3) The program coordinator shall investigate issues of eligibility that result in a person
 22 being denied transportation, determine the status of the person's case, and attempt to
 23 immediately resolve the matter in order for the person to continue to receive
 24 transportation services. A broker shall not deny any person transportation services
 25 until the program coordinator resolves the question of the person's eligibility and
 26 verifies to the broker that the person is actually ineligible to receive transportation
 27 services. A broker who violates the provisions of this subsection shall be fined one

1 thousand dollars (\$1,000) and shall be subject to his or her contract being revoked
 2 by the cabinet. The program coordinator shall coordinate information about
 3 eligibility to participate in the human service transportation delivery program
 4 between the cabinet, the Cabinet for Health and Family Services, and the Education
 5 and Workforce Development Cabinet. The cabinet shall ensure each program
 6 coordinator has direct computer access to all relevant databases used by all state
 7 agencies to administer the human service transportation delivery program. The
 8 Department for Medicaid Services shall provide each program coordinator with a
 9 monthly eligibility list for the area.

10 (4) If a program coordinator is unable to resolve a complaint against a broker or
 11 subcontractor to the satisfaction of the person lodging the complaint on the same
 12 business day the complaint is made, the program coordinator shall immediately act
 13 to assist the person in contacting the appropriate state agency to resolve the
 14 complaint. The program coordinator shall ensure that the cabinet, the Cabinet for
 15 Health and Family Services, and the Education and Workforce Development
 16 Cabinet strictly adhere to the provisions of 42 C.F.R. governing a person's right to
 17 appeal the denial of service or failure for a complaint to be acted upon promptly.
 18 The cabinet shall be required to inform in writing, every person who has either been
 19 denied transportation or who has failed to have a complaint resolved in a prompt
 20 manner under the human service transportation delivery program, of their right to a
 21 hearing to be held in the county where the person lives, and the process to follow to
 22 obtain a hearing.

23 (5) All brokers and subcontractors shall be prohibited from retaliating or attempting
 24 retribution in any way against any person using the human service transportation
 25 delivery program who files a complaint. A broker or subcontractor who is
 26 determined by the cabinet to have violated the provisions of this subsection, after an
 27 investigation and hearing conducted by the cabinet, shall have his or her contract

1 revoked by the cabinet within ninety (90) days of the hearing and shall be prohibited
2 from participating in the human service transportation delivery program for five (5)
3 years from the date of the cabinet's determination.

4 ➔Section 67. KRS 314.452 is amended to read as follows:

5 (1) As used in KRS 314.450 to 314.464, "board" means the board of the Nursing
6 Workforce Foundation.

7 (2) The Nursing Workforce Foundation is created and shall be governed by a board
8 composed of members who are residents of Kentucky appointed by the Governor.

9 (3) The foundation shall be governed by a board, the membership of which shall consist
10 of the following:

11 (a) President, or a designee, of the Kentucky Community and Technical College
12 System;

13 (b) President, or a designee, of the Association of Independent Kentucky Colleges
14 and Universities;

15 (c) President, or a designee, of the Council on Postsecondary Education;

16 (d) Secretary, or a designee, of the Education and Workforce Development
17 Cabinet;

18 (e) Executive director, or a designee, of the Kentucky Board of Nursing;

19 (f) President, or a designee, of the Kentucky Nurses Association;

20 (g) President, or a designee, of the Kentucky Coalition of Nurse Practitioners and
21 Nurse Midwives;

22 (h) President, or a designee, of the Kentucky Council of Associate Degree
23 Nursing Programs;

24 (i) Chair, or a designee, of the Kentucky Association of Baccalaureate and Higher
25 Degree Nursing Programs; and

26 (j) Two (2) members from a list of three (3) individuals recommended by the
27 Kentucky Hospital Association, with one (1) representing a rural hospital and

1 one (1) representing an urban hospital.

2 (4) The board shall elect a chairman from its members. The board shall meet at least
3 four (4) times a year and at the call of the chairman or a majority of the board
4 members. A majority of the board membership shall constitute a quorum.

5 (5) Each hospital representative appointment shall be for a term of four (4) years. A
6 vacancy on the board shall be filled by the Governor as provided under this
7 section.

8 (6) Members of the board shall be entitled to reimbursement for expenses when
9 carrying out official duties of the board in accordance with state administrative
10 regulations relating to travel reimbursement.

11 (7) The board shall employ or contract with a qualified person or nonprofit organization
12 to serve as executive director to the board and shall fix the compensation and define
13 the duties. The executive director shall be responsible for the performance of the
14 administrative functions of the board and such other duties as the board may direct.
15 The board may employ or contract with other persons as may be necessary to carry
16 on the work of the board.

17 (8) The board shall be a nonprofit, quasi-governmental corporation subject to the
18 Kentucky Open Records Law and Kentucky Open Meetings Law. The board shall
19 have any and all general corporate, trust, or other powers reasonable or necessary to
20 fulfill the requirements and purposes of KRS 314.450 to 314.464.

21 (9) The provisions of KRS 314.450 to 314.464 shall be funded by any grants, gifts, and
22 contributions received by the board or other general funds appropriated by the
23 General Assembly.

24 ➔Section 68. KRS 314.464 is amended to read as follows:

25 Each school of nursing as defined under KRS 314.011 that is located in Kentucky,
26 whether or not awarded funding under KRS 314.450 to 314.464, shall submit an annual
27 report by August 1 to the board, the Kentucky Board of Nursing, the Council on

1 Postsecondary Education, the Education **and Workforce Development** Cabinet, and the
 2 Legislative Research Commission detailing its strategies for increasing the enrollment of
 3 students who graduate from the program prepared for licensure as registered nurses or
 4 licensed practical nurses. Efforts undertaken by each school to increase cultural diversity
 5 within its nursing students shall be included in the annual report to the board.

6 ➔Section 69. KRS 341.005 is amended to read as follows:

7 As used in this chapter, unless the context clearly requires otherwise:

- 8 (1) "Cabinet" means the Education **and Workforce Development** Cabinet;
- 9 (2) "Secretary" means the secretary of the Education **and Workforce Development**
 10 Cabinet or his or her duly authorized representative; and
- 11 (3) "Commission" means the unemployment insurance commission.

12 ➔Section 70. KRS 341.080 is amended to read as follows:

13 As used in this chapter, unless the context clearly requires otherwise:

- 14 (1) Except in so far as the Education **and Workforce Development** Cabinet by
 15 regulation prescribes the equivalent thereof to meet particular conditions:
- 16 (a) "Calendar year" means a year beginning on January 1; and
- 17 (b) "Calendar quarter" means three (3) consecutive months beginning on January
 18 1, April 1, July 1, or October 1;
- 19 (2) "Week" means such period of seven (7) consecutive calendar days as the Education
 20 **and Workforce Development** Cabinet regulation prescribes; and
- 21 (3) "Week of unemployment" means any period of seven (7) consecutive days, as
 22 prescribed by the Education **and Workforce Development** Cabinet in administrative
 23 regulations, during which a worker performed less than full-time work and earned
 24 less than an amount equal to one and one-fourth (1-1/4) times the benefit rate
 25 determined for him in accordance with the provisions of subsection (2) of KRS
 26 341.380.

27 ➔Section 71. KRS 341.110 is amended to read as follows:

1 (1) In the Education and Workforce Development Cabinet, there shall be an
 2 Unemployment Insurance Commission composed of the secretary or his or her duly
 3 authorized representative, as ex officio chairman and two (2) members appointed by
 4 the Governor.

5 (2) The secretary shall represent the state and the public. One (1) member shall be
 6 appointed as a representative of labor and one (1) as a representative of employers.
 7 The chairman and one (1) other member of the commission shall constitute a
 8 quorum.

9 (3) The members representing labor and employers shall be appointed on the basis of
 10 their merit and fitness to perform their duties and exercise the responsibilities of
 11 their offices. They shall be citizens of this state and not less than thirty (30) years of
 12 age.

13 (4) The terms of each member appointed to represent labor and employers shall be for
 14 four (4) years from the date of appointment and until a successor is appointed and
 15 qualified, except that appointments to vacancies shall be for the unexpired term.

16 (5) The compensation of the members representing labor and employers shall be
 17 \$12,000 each per annum.

18 ➔Section 72. KRS 341.125 is amended to read as follows:

19 (1) It shall be the duty of the secretary of the Education and Workforce Development
 20 Cabinet to administer this chapter; and he shall have power and authority to make
 21 such expenditures, require such reports, make such investigations, and take such
 22 other action not specifically assigned to the cabinet, as he or she deems necessary
 23 for the proper administration of this chapter.

24 (2) The secretary is authorized, subject to the provisions of KRS Chapters 12, 42, 45,
 25 and 45A, to appoint, fix the compensation, and prescribe duties and powers of such
 26 officers and employees as may be necessary in the performance of his or her duties
 27 under this chapter. All positions shall be filled by persons selected and appointed on

1 a nonpartisan merit basis. The secretary shall not employ or pay any person who is
 2 an officer or committee member of any political party organization. The secretary
 3 may delegate to any such person so appointed such power and authority as he or she
 4 deems reasonable and proper for the effective administration of this chapter.

5 (3) The salary and expenses of the secretary and his or her staff shall be considered a
 6 proper cost of the administration of this chapter, to be charged to the unemployment
 7 compensation administration fund in that proportion which the cost of such services
 8 rendered in the administration of this chapter bears to the overall cost of the services
 9 rendered in the administration of the cabinet.

10 (4) The secretary shall submit to the Governor an annual report covering the
 11 administration and operation of this chapter and make such recommendations for
 12 amendments to this chapter as he or she deems proper.

13 (5) In the administration of this chapter the secretary shall cooperate to the fullest
 14 extent possible with any agency of this state or any other state or of the United
 15 States and shall take such action, through the adoption of appropriate rules,
 16 regulations, administrative methods, and standards, as may be necessary to secure
 17 for this state and its citizens all the advantages available under the provisions of the
 18 Social Security Act, as amended, that relate to unemployment compensation, the
 19 Federal Unemployment Tax Act, as amended, the Wagner-Peyser Act, as amended,
 20 and the Federal-State Extended Unemployment Compensation Act of 1970.

21 ➔Section 73. KRS 341.145 is amended to read as follows:

22 (1) The secretary of the Education and Workforce Development Cabinet may enter into
 23 arrangements with the appropriate agencies of other states or of the federal
 24 government, or both, for the purpose of assisting the secretary and such agencies in
 25 the payment of benefits and the furnishing of services to unemployed or
 26 underemployed workers. Such arrangements may provide that the respective
 27 agencies shall, for and on behalf of each other, act as agents in effecting

1 registrations for work, notices of unemployment, and any other certifications or
2 statements relating to a worker's claim for benefits; in making investigations, taking
3 depositions, holding hearings, or otherwise securing information relating to benefit
4 eligibility and payments; and in such other matters as the secretary considers
5 suitable in effectuating the purpose of these administrative arrangements.

6 (2) The secretary may enter into arrangements with the appropriate agencies of other
7 states or the federal government whereby workers performing services in this and
8 other states for a single employing unit under circumstances not specifically
9 provided in KRS 341.050, or under similar provisions in the unemployment
10 compensation laws of such other states, shall be deemed to be engaged in
11 employment performed entirely within this state or within one of such other states.

12 (3) (a) The secretary shall participate in any arrangements for the payment of benefits
13 on the basis of combining an individual's wages and employment covered
14 under this chapter with his wages and employment covered under the
15 unemployment compensation laws of other states or the federal government
16 which are approved by the United States Secretary of Labor in consultation
17 with the state unemployment compensation agencies as reasonably calculated
18 to assure the prompt and full payment of benefits in such situations and which
19 include provisions for applying the base period of a single state law to a claim
20 involving the combining of an individual's wages and employment covered
21 under two (2) or more state unemployment compensation laws, and avoiding
22 the duplicate use of wages and employment by reason of such combining.
23 Reimbursements to another state or the federal government, paid from the
24 fund pursuant to this subsection, shall be deemed to be benefits for the
25 purposes of this chapter and charged to contributory employers' reserve
26 accounts and reimbursing employers' accounts in accordance with the
27 provisions of KRS 341.530(2) and (3) to the extent of calculations made on

1 wages paid during the base period established by KRS 341.090 and wages
2 paid after such base period; provided, however, benefits based on a period
3 previous to the base-wage period established by KRS 341.090 shall be
4 charged to the pooled account for contributing employers only. Provided, that
5 if the Secretary of Labor determines that the charging of reimbursements
6 provided above is inconsistent with the requirements of the Federal
7 Unemployment Tax Act, charges of such reimbursements shall then be made
8 in accordance with regulations prescribed by the secretary.

9 (b) In order that such reciprocal arrangements, when entered into, may be
10 effectuated, wages for insured work under an employment security law of
11 another state or of the federal government shall be deemed to be wages earned
12 in covered employment from a subject employer for the purpose of
13 determining his benefits under this chapter.

14 (4) Notwithstanding any other provision of this chapter, benefits shall not be denied or
15 reduced to an individual solely because he files a claim in another state (or a
16 contiguous country with which the United States has an agreement with respect to
17 unemployment compensation) or because he resides in another state (or such a
18 contiguous country) at the time he files a claim for benefits.

19 (5) To the extent permissible under the laws and Constitution of the United States, the
20 secretary is authorized to enter into or cooperate in arrangements or reciprocal
21 agreements with appropriate and duly authorized agencies of other states or the
22 United States Secretary of Labor or both, whereby:

23 (a) Overpayments of unemployment benefits, as determined under this chapter,
24 shall be recoverable (after due notice and opportunity for appeal has been
25 provided to the claimant) by offset from unemployment benefits otherwise
26 payable under the unemployment compensation law of another state, in either
27 the current or any subsequent benefit year, in an amount equivalent to the

1 amount of overpayment determined under this chapter, provided the Office of
 2 Employment and Training, Department of Workforce Investment, certifies to
 3 the other state the facts involved and that the claimant is liable to repay the
 4 benefits and the office requests the other state to recover the benefits; and

5 (b) Overpayments of unemployment benefits, as determined under the
 6 unemployment compensation law of another state, shall be recoverable (after
 7 such state has provided due notice and opportunity for appeal to the claimant)
 8 by offset from unemployment benefits otherwise payable under this chapter, in
 9 either the current or subsequent benefit year, in an amount equivalent to the
 10 amount of overpayment determined by such other state, provided such state
 11 certifies to the office the facts involved and that the individual is liable to
 12 repay the benefits and the state requests the office to recover the benefits; and

13 (c) Provided there is in effect a reciprocal agreement between this state and the
 14 United States Secretary of Labor, as authorized by Section 303(g)(2) of the
 15 Social Security Act, the overpayment of unemployment benefits or allowances
 16 for unemployment provided under a federal program administered by this state
 17 shall be recoverable by offset from benefits otherwise payable under this
 18 chapter or any such federal program. Such agreement shall also suffice to
 19 permit the offset from unemployment benefits, otherwise payable under a
 20 federal program administered by this state, the overpayment of unemployment
 21 benefits paid under this chapter.

22 If another state also has in effect a like agreement with the United States Secretary
 23 of Labor, then these provisions for cross-offset of state and federal unemployment
 24 benefits shall apply to benefits otherwise payable under this chapter, the laws of the
 25 other state or any federal unemployment program administered by either state.

26 ➔Section 74. KRS 341.190 is amended to read as follows:

27 (1) Each employing unit shall keep true and accurate work records of all workers

1 employed by it, of the wages paid by it to each worker, and such other information
2 as the secretary of the Education and Workforce Development Cabinet considers
3 necessary for the proper administration of this chapter. The records shall be open for
4 inspection and subject to being copied by the secretary or his or her authorized
5 representatives at any reasonable time and as often as necessary.

6 (2) The secretary may require any employing unit to furnish to the cabinet at its central
7 office from time to time information concerning the total amounts of wages paid,
8 total number of persons employed, an individual record of each worker employed,
9 an individual record of each worker whose employment has been terminated or who
10 has been laid off, an individual wage and hour record of each worker employed part
11 time entitled to benefits, and other related matters, including hours worked, which
12 the secretary considers necessary to the effective administration of this chapter.

13 (3) Information obtained from an employing unit or individual and other records made
14 by the cabinet in the administration of this chapter are confidential and shall not be
15 published or be open for public inspection, except as provided below:

16 (a) Information and records may be made available to public employees in the
17 performance of their duties, but the agency receiving the information and
18 records shall assure the confidentiality, as required in this section, of all
19 information and records so released by entering into a written, enforceable,
20 and terminable agreement with the cabinet and by satisfying the safeguards set
21 forth in the federal confidentiality and disclosure requirements as prescribed
22 by 42 U.S.C. sec. 503, 26 U.S.C. sec. 3304, and 20 C.F.R. sec. 603.9;

23 (b) A claimant or employing unit or his legal representative shall be provided,
24 upon request, information and records maintained by the cabinet in the
25 administration of his claim, his reserve account, his reimbursing employer
26 account, or any proceeding under this chapter to which he is a party;

27 (c) A public official with authority under state or federal law to obtain the

1 information and records by subpoena, other than a clerk of court on behalf of a
 2 litigant, shall be provided information and records upon service of a duly
 3 issued subpoena;

4 (d) A federal official, when required for the purposes of oversight and auditing of
 5 the unemployment insurance program, shall be provided information and
 6 records;

7 (e) Statistical information derived from information and records obtained or made
 8 by the cabinet may be published, if it in no way reveals the identity of any
 9 claimant or employing unit; and

10 (f) Nothing in this section shall preclude the secretary or any employee of the
 11 cabinet from testifying in any proceeding under this chapter or in any court, or
 12 from introducing as evidence information or records obtained or made by the
 13 cabinet in an action for violation of state or federal law to which the cabinet is
 14 a party or upon order of the court.

15 (4) Disclosures shall be made under subsection (3) of this section only if:

16 (a) The disclosure is necessary for the proper administration of the unemployment
 17 insurance program;

18 (b) No more than an incidental amount of staff time or a nominal processing cost
 19 is required to make the disclosure; or

20 (c) The cost of providing the information and records is paid by the recipient prior
 21 to the disclosure, consistent with federal laws and regulations, except this
 22 requirement shall not apply to disclosures made under subsection (3)(c) and
 23 (f) of this section if the cabinet attempts without success to recover the cost of
 24 disclosure. For disclosures made to public employees under subsection (3)(a)
 25 of this section, this requirement shall be met if the agency provides a
 26 reciprocal benefit to the cabinet in the administration of the unemployment
 27 insurance program, or if a reasonable reimbursement for the disclosure shall

1 be determined under federal law.

2 (5) Any disclosure or use of information and records that is inconsistent with the
3 provisions of this section shall be subject to the penalty prescribed in KRS
4 341.990(11).

5 (6) No information or records held confidential under subsection (3) of this section
6 shall be the subject matter or basis for any suit for slander or libel in any court, but
7 no employer or employee, or his representative, testifying before the commission,
8 the secretary, or any duly authorized representative thereof, shall be exempt from
9 punishment for perjury.

10 ➔Section 75. KRS 341.230 is amended to read as follows:

11 The secretary may authorize the destruction of such original reports and records as have
12 been properly recorded and summarized in the permanent records of the Education and
13 Workforce Development Cabinet or are no longer considered necessary for the proper
14 administration of this chapter. Wage records of the individual worker or transcripts
15 thereof may be destroyed or disposed of two (2) years after the expiration of the period
16 covered by them or upon proof of death of the worker. Such destruction or disposition
17 shall be made only by order of the secretary. Any money received from the disposition of
18 such records shall be deposited to the credit of the unemployment compensation
19 administration fund.

20 ➔Section 76. KRS 341.245 is amended to read as follows:

21 Subject to the provisions of KRS 56.440 to 56.550, inclusive, the secretary of the
22 Education and Workforce Development Cabinet is authorized and empowered to use all
23 or any part of the funds accumulated under the provisions of KRS 341.295 for the
24 purpose of acquiring suitable space for either central or district offices of the cabinet by
25 way of purchase, lease, contract, or in any other manner including the right to use said
26 funds or any part thereof to assist in financing the construction of any building erected by
27 the Commonwealth or any of its agencies wherein available space will be provided for the

1 cabinet under lease or contract between the cabinet and the Commonwealth or such other
 2 agency whereby said cabinet will continue to occupy such space, rent free, after the cost
 3 of financing such building has been liquidated.

4 ➔Section 77. KRS 341.275 is amended to read as follows:

5 (1) For the purpose of this section, a nonprofit organization is an organization (or group
 6 of organizations) described in Section 501(c)(3) of the United States Internal
 7 Revenue Code which is exempt from income tax under Section 501(a) of such code.
 8 For the purpose of this section, "cabinet" shall mean the Education and Workforce
 9 Development Cabinet and "secretary" shall mean the secretary of the Education and
 10 Workforce Development Cabinet.

11 (2) Any nonprofit organization which, pursuant to KRS 341.070(4), is, or becomes, a
 12 subject employer shall pay contributions under the provisions of KRS 341.270,
 13 unless it elects, in accordance with this section, to pay to the cabinet for the fund an
 14 amount equal to the amount of regular benefits and of one-half (1/2) of the extended
 15 benefits paid to workers for weeks of unemployment that is attributable to service in
 16 the employ of the nonprofit organization, performed during the effective period of
 17 the election but only if the employer is the worker's most recent employer. No
 18 employer shall be deemed to be the most recent employer unless the eligible worker
 19 to whom benefits are payable shall have worked for that employer in each of ten
 20 (10) weeks whether or not consecutive.

21 (a) Any nonprofit organization which is, or becomes, a subject employer on July
 22 1, 1972, may elect to become liable for payments in lieu of contributions for a
 23 period of not less than the remainder of 1972 and the calendar year of 1973,
 24 provided it files with the cabinet a written notice of its election within the
 25 thirty (30) day period immediately following such date.

26 (b) Any nonprofit organization which becomes a subject employer after July 1,
 27 1972, may elect to become liable for payments in lieu of contributions for a

1 period of not less than the period of subjectivity during the year in which such
2 subjectivity begins and the following calendar year by filing a written notice
3 of its election with the cabinet not later than thirty (30) days immediately
4 following the date of the determination of such subjectivity.

5 (c) Any nonprofit organization which makes an election in accordance with
6 paragraph (a) or paragraph (b) of this subsection will continue to be liable for
7 payments in lieu of contributions until it files with the secretary a written
8 notice terminating its election not later than thirty (30) days prior to the
9 beginning of the calendar year for which such termination shall first be
10 effective, except that liability for payments in lieu of contributions shall
11 continue thereafter with respect to wages paid prior to the effective date of
12 such termination.

13 (d) Any nonprofit organization which has been paying contributions under this
14 chapter for a period subsequent to July 1, 1972, may change to a reimbursable
15 basis by filing with the cabinet not later than thirty (30) days prior to the
16 beginning of any calendar year a written notice of election to become liable
17 for payments in lieu of contributions. Such election shall not be terminable by
18 such organization for that and the following year.

19 (e) The secretary may for good cause extend the period within which a notice of
20 election, or a notice of termination, must be filed and may permit an election
21 to be retroactive but not any earlier than with respect to benefits paid after
22 December 31, 1969.

23 (f) The secretary shall notify each nonprofit organization of any determination
24 which may be made of its status as an employer and of the effective date of
25 any election which it makes and of any termination of such election. Such
26 determinations shall be subject to appeal and review in accordance with the
27 provisions of KRS 341.430(2).

1 (3) Payments in lieu of contributions shall be made in accordance with the provisions
2 of this subsection.

3 (a) At the end of each calendar quarter, the cabinet shall bill each nonprofit
4 organization (or group of such organizations) which has elected to make
5 payments in lieu of contributions for an amount equal to the full amount of
6 regular benefits plus one-half (1/2) of the amount of extended benefits paid
7 during such quarter plus any prior period adjustments, which are attributable
8 to service performed in covered employment in the employ of such
9 organization.

10 (b) Payment of any bill rendered under paragraph (a) shall be made not later than
11 thirty (30) days after such bill was mailed to the last known address of the
12 nonprofit organization or was otherwise delivered to it, unless there has been
13 an application for review in accordance with paragraph (d) of this subsection.

14 (c) Payments made by any nonprofit organization under the provisions of this
15 subsection shall not be deducted or deductible, in whole or in part, from the
16 remuneration of workers in the employ of the organization.

17 (d) The amount due specified in any bill from the secretary shall be conclusive on
18 the organization unless, not later than fifteen (15) days after the bill was
19 mailed to its last known address or otherwise delivered to it, the organization
20 files an appeal to the commission setting forth the grounds for such appeal.
21 Proceedings on appeal to the commission from the amount of a bill rendered
22 under this subsection shall be in accordance with the provisions of KRS
23 341.430, and the decision of the commission shall be subject to review under
24 the provisions of KRS 341.460(1).

25 (e) Past-due payments of amounts in lieu of contributions shall be subject to the
26 same interest, penalties, collection service, and lien provisions that, pursuant
27 to KRS 341.300 to 341.310, apply to past-due contributions.

- 1 (4) (a) The secretary may, in accordance with regulations prescribed by the cabinet,
2 require any nonprofit organization that elects to become liable for payments in
3 lieu of contributions to deposit with the cabinet, within thirty (30) days after
4 the effective date of its election as a condition thereof, money equal to two
5 percent (2%) of the organization's total wages paid for employment as defined
6 in KRS 341.050(1)(e) for the four (4) calendar quarters immediately preceding
7 the effective date of such election. If the nonprofit organization did not pay
8 wages in each of such four (4) calendar quarters, the amount of the deposit
9 shall be as determined by the secretary.
- 10 (b) Money deposited in accordance with this subsection shall be retained by the
11 cabinet in an escrow account until all possible liability to the fund under the
12 election is terminated, at which time it shall be returned to the organization,
13 less any deductions as hereinafter provided. The cabinet may deduct from the
14 money deposited under this subsection by a nonprofit organization to the
15 extent necessary to satisfy any due and unpaid payments in lieu of
16 contributions and any applicable interest and penalties provided for in
17 subsection (3)(e) of this section. The secretary shall require the organization
18 within thirty (30) days following any deduction from a money deposit under
19 the provisions of this subsection to deposit sufficient additional money to
20 make whole the organization's deposit at the prior level. The secretary may, at
21 any time, review the adequacy of the deposit made by any organization. If, as
22 a result of such review, he determines that an adjustment is necessary, he shall
23 require the organization to make additional deposit within thirty (30) days of
24 written notice of his determination or shall return to it such portion of the
25 deposit as he no longer considers necessary, whichever action is appropriate.
- 26 (c) If any nonprofit organization fails to make a deposit, or to increase or make
27 whole the amount of a previously made deposit, as provided under this

1 subsection, the secretary may terminate such organization's election to make
 2 payments in lieu of contributions and such termination shall continue for not
 3 less than the remainder of that calendar year and the following calendar year
 4 beginning with the quarter in which such termination becomes effective;
 5 provided, that the secretary may extend for good cause the applicable filing,
 6 deposit, or adjustment period by not more than sixty (60) days.

7 (5) If any nonprofit organization is delinquent in making payments in lieu of
 8 contributions as required under subsection (3) of this section, the secretary may
 9 terminate such organization's election to make payments in lieu of contributions as
 10 of the beginning of the next calendar year, and such termination shall be effective
 11 for that and the next calendar year.

12 (6) Notwithstanding any other section of this chapter, no employing unit electing to
 13 make payments in lieu of contributions under the provisions of this section shall be
 14 entitled to relief of benefit charges.

15 ➔Section 78. KRS 341.370 is amended to read as follows:

16 (1) A worker shall be disqualified from receiving benefits for the duration of any period
 17 of unemployment with respect to which:

18 (a) He has failed without good cause either to apply for available, suitable work
 19 when so directed by the employment office or the secretary or to accept
 20 suitable work when offered him, or to return to his customary self-
 21 employment when so directed by the secretary; or

22 (b) He has been discharged for misconduct or dishonesty connected with his most
 23 recent work, or from any work which occurred after the first day of the
 24 worker's base period and which last preceded his most recent work, but
 25 legitimate activity in connection with labor organizations or failure to join a
 26 company union shall not be construed as misconduct; or

27 (c) He has left his most recent suitable work or any other suitable work which

1 occurred after the first day of the worker's base period and which last preceded
 2 his most recent work voluntarily without good cause attributable to the
 3 employment. No otherwise eligible worker shall be disqualified from
 4 receiving benefits for:

- 5 1. Leaving his next most recent suitable work which was concurrent with
 6 his most recent work;
- 7 2. Leaving work which is one hundred (100) road miles or more, as
 8 measured on a one (1) way basis, from his home to accept work which is
 9 less than one hundred (100) road miles from his home;
- 10 3. Accepting work which is a bona fide job offer with a reasonable
 11 expectation of continued employment; or
- 12 4. a. Leaving work to accompany the worker's spouse to a different state
 13 when the spouse is reassigned by the military.
 14 b. Subdivision a. of this subparagraph shall apply only if the state of
 15 relocation has adopted a statute substantially similar to that
 16 subdivision.

17 (2) A worker shall be disqualified from receiving benefits for any week with respect to
 18 which he knowingly made a false statement to establish his right to or the amount of
 19 his benefits, and, within the succeeding twenty-four (24) months, for the additional
 20 weeks immediately following the date of discovery, not to exceed a total of fifty-
 21 two (52), as may be determined by the secretary.

22 (3) No worker shall be disqualified under paragraph (b) or (c) of subsection (1) of this
 23 section unless the employer, within a reasonable time as prescribed by regulations
 24 promulgated by the secretary, notifies the Education and Workforce Development
 25 Cabinet and the worker in writing of the alleged voluntary quitting or the discharge
 26 for misconduct. Nothing in this subsection shall restrict the right of the secretary to
 27 disqualify a worker whose employer has refused or failed to notify the Education

1 and Workforce Development Cabinet of the alleged voluntary quitting or discharge
 2 for misconduct, if the alleged voluntary quitting or discharge for misconduct is
 3 known to the secretary prior to the time benefits are paid to the worker. The
 4 exercise of the right by the secretary, in the absence of timely notice from the
 5 employer, shall not relieve the employer's reserve account or reimbursing
 6 employer's account of benefit charges under the provisions of subsection (3) of KRS
 7 341.530.

8 (4) As used in this section and in subsection (3) of KRS 341.530, "most recent" work
 9 shall be construed as that work which occurred after the first day of the worker's
 10 base period and which last preceded the week of unemployment with respect to
 11 which benefits are claimed; except that, if the work last preceding the week of
 12 unemployment was seasonal, intermittent, or temporary in nature, most recent work
 13 may be construed as that work last preceding the seasonal, intermittent, or
 14 temporary work.

15 (5) No worker shall be disqualified or held ineligible under the provisions of this
 16 section or KRS 341.350, who is separated from employment pursuant to a labor
 17 management contract or agreement, or pursuant to an established employer plan,
 18 program, or policy, which permits the employer to close the plant or facility for
 19 purposes of vacation or maintenance.

20 (6) "Discharge for misconduct" as used in this section shall include but not be limited
 21 to, separation initiated by an employer for falsification of an employment
 22 application to obtain employment through subterfuge; knowing violation of a
 23 reasonable and uniformly enforced rule of an employer; unsatisfactory attendance if
 24 the worker cannot show good cause for absences or tardiness; damaging the
 25 employer's property through gross negligence; refusing to obey reasonable
 26 instructions; reporting to work under the influence of alcohol or drugs or consuming
 27 alcohol or drugs on employer's premises during working hours; conduct

1 endangering safety of self or co-workers; and incarceration in jail following
 2 conviction of a misdemeanor or felony by a court of competent jurisdiction, which
 3 results in missing at least five (5) days work.

4 (7) "Duration of any period of unemployment," as that term is used in this section, shall
 5 be the period of time beginning with the worker's discharge, voluntary quitting, or
 6 failure to apply for or accept suitable work and running until the worker has worked
 7 in each of ten (10) weeks, whether or not consecutive, and has earned ten (10) times
 8 his weekly benefit rate in employment covered under the provisions of this chapter
 9 or a similar law of another state or of the United States.

10 ➔Section 79. KRS 342.0011 is amended to read as follows:

11 As used in this chapter, unless the context otherwise requires:

12 (1) "Injury" means any work-related traumatic event or series of traumatic events,
 13 including cumulative trauma, arising out of and in the course of employment which
 14 is the proximate cause producing a harmful change in the human organism
 15 evidenced by objective medical findings. "Injury" does not include the effects of the
 16 natural aging process, and does not include any communicable disease unless the
 17 risk of contracting the disease is increased by the nature of the employment.
 18 "Injury" when used generally, unless the context indicates otherwise, shall include
 19 an occupational disease and damage to a prosthetic appliance, but shall not include
 20 a psychological, psychiatric, or stress-related change in the human organism, unless
 21 it is a direct result of a physical injury;

22 (2) "Occupational disease" means a disease arising out of and in the course of the
 23 employment;

24 (3) An occupational disease as defined in this chapter shall be deemed to arise out of
 25 the employment if there is apparent to the rational mind, upon consideration of all
 26 the circumstances, a causal connection between the conditions under which the
 27 work is performed and the occupational disease, and which can be seen to have

1 followed as a natural incident to the work as a result of the exposure occasioned by
 2 the nature of the employment and which can be fairly traced to the employment as
 3 the proximate cause. The occupational disease shall be incidental to the character of
 4 the business and not independent of the relationship of employer and employee. An
 5 occupational disease need not have been foreseen or expected but, after its
 6 contraction, it must appear to be related to a risk connected with the employment
 7 and to have flowed from that source as a rational consequence;

8 (4) "Injurious exposure" shall mean that exposure to occupational hazard which would,
 9 independently of any other cause whatsoever, produce or cause the disease for
 10 which the claim is made;

11 (5) "Death" means death resulting from an injury or occupational disease;

12 (6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the
 13 liability of employers under this chapter and includes a self-insurer;

14 (7) "Self-insurer" is an employer who has been authorized under the provisions of this
 15 chapter to carry his own liability on his employees covered by this chapter;

16 (8) "Office" means the Office of Workers' Claims in the Department of Labor;

17 (9) "Executive director" means the executive director of the Office of Workers' Claims;

18 (10) "Board" means the Workers' Compensation Board;

19 (11) (a) "Temporary total disability" means the condition of an employee who has not
 20 reached maximum medical improvement from an injury and has not reached a
 21 level of improvement that would permit a return to employment;

22 (b) "Permanent partial disability" means the condition of an employee who, due to
 23 an injury, has a permanent disability rating but retains the ability to work; and

24 (c) "Permanent total disability" means the condition of an employee who, due to
 25 an injury, has a permanent disability rating and has a complete and permanent
 26 inability to perform any type of work as a result of an injury, except that total
 27 disability shall be irrebuttably presumed to exist for an injury that results in:

- 1 1. Total and permanent loss of sight in both eyes;
- 2 2. Loss of both feet at or above the ankle;
- 3 3. Loss of both hands at or above the wrist;
- 4 4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at
- 5 or above the wrist;
- 6 5. Permanent and complete paralysis of both arms, both legs, or one (1)
- 7 arm and one (1) leg;
- 8 6. Incurable insanity or imbecility; or
- 9 7. Total loss of hearing;
- 10 (12) "Income benefits" means payments made under the provisions of this chapter to the
- 11 disabled worker or his dependents in case of death, excluding medical and related
- 12 benefits;
- 13 (13) "Medical and related benefits" means payments made for medical, hospital, burial,
- 14 and other services as provided in this chapter, other than income benefits;
- 15 (14) "Compensation" means all payments made under the provisions of this chapter
- 16 representing the sum of income benefits and medical and related benefits;
- 17 (15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical
- 18 rehabilitation services, medicines, and fittings for artificial or prosthetic devices;
- 19 (16) "Person" means any individual, partnership, limited partnership, limited liability
- 20 company, firm, association, trust, joint venture, corporation, or legal representative
- 21 thereof;
- 22 (17) "Wages" means, in addition to money payments for services rendered, the
- 23 reasonable value of board, rent, housing, lodging, fuel, or similar advantages
- 24 received from the employer, and gratuities received in the course of employment
- 25 from persons other than the employer as evidenced by the employee's federal and
- 26 state tax returns;
- 27 (18) "Agriculture" means the operation of farm premises, including the planting,

1 cultivation, producing, growing, harvesting, and preparation for market of
 2 agricultural or horticultural commodities thereon, the raising of livestock for food
 3 products and for racing purposes, and poultry thereon, and any work performed as
 4 an incident to or in conjunction with the farm operations, including the sale of
 5 produce at on-site markets and the processing of produce for sale at on-site markets.

6 It shall not include the commercial processing, packing, drying, storing, or canning
 7 of such commodities for market, or making cheese or butter or other dairy products
 8 for market;

9 (19) "Beneficiary" means any person who is entitled to income benefits or medical and
 10 related benefits under this chapter;

11 (20) "United States," when used in a geographic sense, means the several states, the
 12 District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the
 13 territories of the United States;

14 (21) "Alien" means a person who is not a citizen, a national, or a resident of the United
 15 States or Canada. Any person not a citizen or national of the United States who
 16 relinquishes or is about to relinquish his residence in the United States shall be
 17 regarded as an alien;

18 (22) "Insurance carrier" means every insurance carrier or insurance company authorized
 19 to do business in the Commonwealth writing workers' compensation insurance
 20 coverage and includes the Kentucky Employers Mutual Insurance Authority and
 21 every self-insured group operating under the provisions of this chapter;

22 (23) (a) "Severance or processing of coal" means all activities performed in the
 23 Commonwealth at underground, auger, and surface mining sites; all activities
 24 performed at tipple or processing plants that clean, break, size, or treat coal;
 25 and all activities performed at coal loading facilities for trucks, railroads, and
 26 barges. Severance or processing of coal shall not include acts performed by a
 27 final consumer if the acts are performed at the site of final consumption;

1 (b) "Engaged in severance or processing of coal" shall include all individuals,
 2 partnerships, limited partnerships, limited liability companies, corporations,
 3 joint ventures, associations, or any other business entity in the Commonwealth
 4 which has employees on its payroll who perform any of the acts stated in
 5 paragraph (a) of this subsection, regardless of whether the acts are performed
 6 as owner of the coal or on a contract or fee basis for the actual owner of the
 7 coal. A business entity engaged in the severance or processing of coal,
 8 including but not limited to administrative or selling functions, shall be
 9 considered wholly engaged in the severance or processing of coal for the
 10 purpose of this chapter. However, a business entity which is engaged in a
 11 separate business activity not related to coal, for which a separate premium
 12 charge is not made, shall be deemed to be engaged in the severance or
 13 processing of coal only to the extent that the number of employees engaged in
 14 the severance or processing of coal bears to the total number of employees.
 15 Any employee who is involved in the business of severing or processing of
 16 coal and business activities not related to coal shall be prorated based on the
 17 time involved in severance or processing of coal bears to his total time;

18 (24) "Premium" for every self-insured group means any and all assessments levied on its
 19 members by such group or contributed to it by the members thereof. For special
 20 fund assessment purposes, "premium" also includes any and all membership dues,
 21 fees, or other payments by members of the group to associations or other entities
 22 used for underwriting, claims handling, loss control, premium audit, actuarial, or
 23 other services associated with the maintenance or operation of the self-insurance
 24 group;

25 (25) (a) "Premiums received" for policies effective on or after January 1, 1994, for
 26 insurance companies means direct written premiums as reported in the annual
 27 statement to the Office of Insurance by insurance companies, except that

1 "premiums received" includes premiums charged off or deferred, and, on
2 insurance policies or other evidence of coverage with provisions for
3 deductibles, the calculated cost for coverage, including experience
4 modification and premium surcharge or discount, prior to any reduction for
5 deductibles. The rates, factors, and methods used to calculate the cost for
6 coverage under this paragraph for insurance policies or other evidence of
7 coverage with provisions for deductibles shall be the same rates, factors, and
8 methods normally used by the insurance company in Kentucky to calculate the
9 cost for coverage for insurance policies or other evidence of coverage without
10 provisions for deductibles, except that, for insurance policies or other
11 evidence of coverage with provisions for deductibles effective on or after
12 January 1, 1995, the calculated cost for coverage shall not include any
13 schedule rating modification, debits, or credits. The cost for coverage
14 calculated under this paragraph by insurance companies that issue only
15 deductible insurance policies in Kentucky shall be actuarially adequate to
16 cover the entire liability of the employer for compensation under this chapter,
17 including all expenses and allowances normally used to calculate the cost for
18 coverage. For policies with provisions for deductibles with effective dates of
19 May 6, 1993, through December 31, 1993, for which the insurance company
20 did not report premiums and remit special fund assessments based on the
21 calculated cost for coverage prior to the reduction for deductibles, "premiums
22 received" includes the initial premium plus any reimbursements invoiced for
23 losses, expenses, and fees charged under the deductibles. The special fund
24 assessment rates in effect for reimbursements invoiced for losses, expenses, or
25 fees charged under the deductibles shall be those percentages in effect on the
26 effective date of the insurance policy. For policies covering leased employees
27 as defined in KRS 342.615, "premiums received" means premiums calculated

1 using the experience modification factor of each lessee as defined in KRS
2 342.615 for each leased employee for that portion of the payroll pertaining to
3 the leased employee.

4 (b) "Direct written premium" for insurance companies means the gross premium
5 written less return premiums and premiums on policies not taken but
6 including policy and membership fees.

7 (c) "Premium," for policies effective on or after January 1, 1994, for insurance
8 companies means all consideration, whether designated as premium or
9 otherwise, for workers' compensation insurance paid to an insurance company
10 or its representative, including, on insurance policies with provisions for
11 deductibles, the calculated cost for coverage, including experience
12 modification and premium surcharge or discount, prior to any reduction for
13 deductibles. The rates, factors, and methods used to calculate the cost for
14 coverage under this paragraph for insurance policies or other evidence of
15 coverage with provisions for deductibles shall be the same rates, factors, and
16 methods normally used by the insurance company in Kentucky to calculate the
17 cost for coverage for insurance policies or other evidence of coverage without
18 provisions for deductibles, except that, for insurance policies or other
19 evidence of coverage with provisions for deductibles effective on or after
20 January 1, 1995, the calculated cost for coverage shall not include any
21 schedule rating modifications, debits, or credits. The cost for coverage
22 calculated under this paragraph by insurance companies that issue only
23 deductible insurance policies in Kentucky shall be actuarially adequate to
24 cover the entire liability of the employer for compensation under this chapter,
25 including all expenses and allowances normally used to calculate the cost for
26 coverage. For policies with provisions for deductibles with effective dates of
27 May 6, 1993, through December 31, 1993, for which the insurance company

1 did not report premiums and remit special fund assessments based on the
 2 calculated cost for coverage prior to the reduction for deductibles, "premium"
 3 includes the initial consideration plus any reimbursements invoiced for losses,
 4 expenses, or fees charged under the deductibles.

5 (d) "Return premiums" for insurance companies means amounts returned to
 6 insureds due to endorsements, retrospective adjustments, cancellations,
 7 dividends, or errors;

8 (26) "Insurance policy" for an insurance company or self-insured group means the term
 9 of insurance coverage commencing from the date coverage is extended, whether a
 10 new policy or a renewal, through its expiration, not to exceed the anniversary date
 11 of the renewal for the following year;

12 (27) "Self-insurance year" for a self-insured group means the annual period of
 13 certification of the group created pursuant to KRS 342.350(4) and 304.50-010;

14 (28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1)
 15 shall be the projected value of the employer's workers' compensation claims for the
 16 next calendar year as calculated by the executive director using generally-accepted
 17 actuarial methods as follows:

18 (a) The base period shall be the earliest three (3) calendar years of the five (5)
 19 calendar years immediately preceding the calendar year for which the
 20 calculation is made. The executive director shall identify each claim of the
 21 employer which has an injury date or date of last injurious exposure to the
 22 cause of an occupational disease during each one (1) of the three (3) calendar
 23 years to be used as the base, and shall assign a value to each claim. The value
 24 shall be the total of the indemnity benefits paid to date and projected to be
 25 paid, adjusted to current benefit levels, plus the medical benefits paid to date
 26 and projected to be paid for the life of the claim, plus the cost of medical and
 27 vocational rehabilitation paid to date and projected to be paid. Adjustment to

current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the executive director. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period;

(b) The executive director shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the office and from the records of the Office of Employment and Training, Education and Workforce Development Cabinet. The executive director shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period;

(c) The executive director shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the office and the Office of Employment and Training data which shall be made available for this purpose on a quarterly

1 basis as reported, to obtain the premium for the next calendar year for
2 assessment purposes under KRS 342.122;

3 (d) For November 1, 1987, through December 31, 1988, premium for each
4 employer carrying his own risk shall be an amount calculated by the board
5 pursuant to the provisions contained in this subsection and such premium
6 shall be provided to each employer carrying his own risk and to the funding
7 commission on or before January 1, 1988. Thereafter, the calculations set
8 forth in this subsection shall be performed annually, at the time each employer
9 applies or renews his application for certification to carry his own risk for the
10 next twelve (12) month period and submits payroll and other data in support
11 of the application. The employer and the funding commission shall be notified
12 at the time of the certification or recertification of the premium calculated by
13 the executive director, which shall form the employer's basis for assessments
14 pursuant to KRS 342.122 for the calendar year beginning on January 1
15 following the date of certification or recertification;

16 (e) If an employer having fewer than five (5) years of doing business in this state
17 applies to carry his own risk and is so certified, his premium for the purposes
18 of KRS 342.122 shall be based on the lesser number of years of experience as
19 may be available including the two (2) most recent years if necessary to create
20 a three (3) year base period. If the employer has less than two (2) years of
21 operation in this state available for the premium calculation, then his premium
22 shall be the greater of the value obtained by the calculation called for in this
23 subsection or the amount of security required by the executive director
24 pursuant to KRS 342.340(1);

25 (f) If an employer is certified to carry his own risk after having previously insured
26 the risk, his premium shall be calculated using values obtained from claims
27 incurred while insured for as many of the years of the base period as may be

- 1 necessary to create a full three (3) year base. After the employer is certified to
 2 carry his own risk and has paid all amounts due for assessments upon
 3 premiums paid while insured, he shall be assessed only upon the premium
 4 calculated under this subsection;
- 5 (g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated
 6 as set forth in this subsection; and
- 7 (h) Notwithstanding any other provision of this subsection, the premium of any
 8 employer authorized to carry its own risk for purposes of assessments due
 9 under this chapter shall be no less than thirty cents (\$0.30) per one hundred
 10 dollars (\$100) of the employer's most recent annualized payroll for employees
 11 covered by this chapter;
- 12 (29) "SIC code" as used in this chapter means the Standard Industrial Classification
 13 Code contained in the latest edition of the Standard Industrial Classification Manual
 14 published by the Federal Office of Management and Budget;
- 15 (30) "Investment interest" means any pecuniary or beneficial interest in a provider of
 16 medical services or treatment under this chapter, other than a provider in which that
 17 pecuniary or investment interest is obtained on terms equally available to the public
 18 through trading on a registered national securities exchange, such as the New York
 19 Stock Exchange or the American Stock Exchange, or on the National Association of
 20 Securities Dealers Automated Quotation System;
- 21 (31) "Managed health care system" means a health care system that employs gatekeeper
 22 providers, performs utilization review, and does medical bill audits;
- 23 (32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists,
 24 podiatrists, and osteopathic and chiropractic practitioners acting within the scope of
 25 their license issued by the Commonwealth;
- 26 (33) "Objective medical findings" means information gained through direct observation
 27 and testing of the patient applying objective or standardized methods;

1 (34) "Work" means providing services to another in return for remuneration on a regular
2 and sustained basis in a competitive economy;

3 (35) "Permanent impairment rating" means percentage of whole body impairment caused
4 by the injury or occupational disease as determined by "Guides to the Evaluation of
5 Permanent Impairment," American Medical Association, latest available edition;
6 and

7 (36) "Permanent disability rating" means the permanent impairment rating selected by an
8 administrative law judge times the factor set forth in the table that appears at KRS
9 342.730(1)(b).

10 ➔Section 80. KRS 342.122 is amended to read as follows:

11 (1) (a) For calendar year 1997 and for each calendar year thereafter, for the purpose
12 of funding and prefunding the liabilities of the special fund, financing the
13 administration and operation of the Kentucky Workers' Compensation
14 Funding Commission, and financing the expenditures for all programs in the
15 Department of Labor, except the Division of Employment Standards,
16 Apprenticeship and Training and the Office of Labor-Management Relations
17 and Mediation, as reflected in the enacted budget of the Commonwealth and
18 enacted by the General Assembly, the funding commission shall impose a
19 special fund assessment rate of nine percent (9%) upon the amount of workers'
20 compensation premiums received on and after January 1, 1997, through
21 December 31, 1997, by every insurance carrier writing workers' compensation
22 insurance in the Commonwealth, by every self-insured group operating under
23 the provisions of KRS 342.350(4) and Chapter 304, and against the premium,
24 as defined in KRS 342.0011, of every employer carrying his or her own risk.

25 (b) The funding commission shall, for calendar year 1998 and thereafter, establish
26 for the special fund an assessment rate to be assessed against all premium
27 received during that calendar year which, when added to the coal severance

1 tax appropriated to the special fund in accordance with paragraph (c) of this
2 section, shall produce enough revenue to amortize on a level basis the
3 unfunded liability of the special fund as of June 30 preceding January 1 of
4 each year, for the period remaining until December 31, 2018. The interest rate
5 to be used in this calculation shall reflect the funding commission's
6 investment experience to date and the current investment policies of the
7 commission. This assessment shall be imposed upon the amount of workers'
8 compensation premiums received by every insurance carrier writing workers'
9 compensation insurance in the Commonwealth, by every self-insured group
10 operating under the provisions of KRS 342.350(4) and Chapter 304, and
11 against the premium, as defined in KRS 342.0011, of every employer carrying
12 his own risk. On or before October 1 of each year, the commission shall notify
13 each insurance carrier writing workers' compensation insurance in the
14 Commonwealth, every group of self-insured employers, and each employer
15 carrying his or her own risk, of the rates which shall become effective on
16 January 1 of each year, unless modified by the General Assembly.

17 (c) In addition to the assessment imposed in paragraph (a) or (b) of this
18 subsection, and notwithstanding and prior to the transfer of funds to the Local
19 Government Economic Assistance Program under KRS 42.450 to 42.495, the
20 Kentucky Department of Revenue shall credit nineteen million dollars
21 (\$19,000,000) in coal severance tax revenues levied under KRS 143.020 to
22 the benefit reserve fund within the Kentucky Workers' Compensation Funding
23 Commission each year beginning with fiscal year 1998 and all fiscal years
24 thereafter. The annual transfer of nineteen million dollars (\$19,000,000) shall
25 occur in four (4) equal quarterly payments. These transfers shall occur not
26 later than the last day of each quarter of each calendar year and shall consist of
27 four (4) equal payments of four million, seven hundred fifty thousand dollars

1 (\$4,750,000).

2 (d) All assessments imposed by this section shall be paid to the Kentucky
3 Workers' Compensation Funding Commission and shall be credited to the
4 benefit reserve fund within the Kentucky Workers' Compensation Funding
5 Commission.

6 (e) The assessments imposed in this chapter shall be in lieu of all other
7 assessments or taxes on workers' compensation premiums.

8 (2) These assessments shall be paid quarterly not later than the thirtieth day of the
9 month following the end of the quarter in which the premium is received. Receipt
10 shall be considered timely through actual physical receipt or by postmark of the
11 United States Postal Service. Employers carrying their own risk and employers
12 defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal
13 quarterly installments.

14 (3) The assessments imposed by this section may be collected by the insurance carrier
15 from his insured. However, the insurance carrier shall not collect from the employer
16 any amount exceeding the assessments imposed pursuant to this section. If the
17 insurance carrier collects the assessment from an insured, the assessment shall be
18 collected at the same time and in the same proportion as the premium is collected.
19 The assessment for an insurance policy or other evidence of coverage providing a
20 deductible may be collected in accordance with this chapter on a premium amount
21 that equates to the premium that would have applied without the deductible. Each
22 statement from an insurance carrier presented to an insured reflecting premium and
23 assessment amounts shall clearly identify and distinguish the amount to be paid for
24 premium and the amount to be paid for assessments. No insurance carrier shall
25 collect from an insured an amount in excess of the assessment percentages imposed
26 by this chapter. The assessment for an insurance policy or other evidence of
27 coverage providing a deductible may be collected in accordance with this chapter on

1 a premium amount that equates to the premium that would have applied without the
 2 deductible. The percentages imposed by this chapter for an insurance policy issued
 3 by an insurance company shall be those percentages in effect on the annual effective
 4 date of the policy, regardless of the date that the premium is actually received by the
 5 insurance company.

6 (4) A self-insured group may elect to report its premiums and to have its assessments
 7 computed in the same manner as insurance companies. This election may not be
 8 rescinded for at least ten (10) years, nor may this election be made a second time for
 9 at least another ten (10) years, except that the board of directors of the funding
 10 commission may, at its discretion, waive the ten (10) year ban on a case-by-case
 11 basis after formal petition has been made to the funding commission by a self-
 12 insured group.

13 (5) The funding commission, as part of the collection and auditing of the special fund
 14 assessments required by this section, shall annually require each insurance carrier
 15 and each self-insured group to provide a list of employers which it has insured or
 16 which are members and the amount collected from each employer. Additionally, the
 17 funding commission shall require each entity paying a special fund assessment to
 18 report the SIC code for each employer and the amount of premium collected from
 19 each SIC code. An insurance carrier or self-insured group may require its insureds
 20 or members to furnish the SIC code for each of their employees. However, the
 21 failure of any employer to furnish said codes shall not relieve the insurance carrier
 22 or self-insured group from the obligation to furnish same to the funding
 23 commission. The Office of Employment and Training, Education and Workforce
 24 Development Cabinet, is hereby directed to make available the SIC codes assigned
 25 in its records to specific employers to aid in the reporting and recording of the
 26 special fund assessment data.

27 (6) Each self-insured employer, self-insured group, or insurance carrier shall provide

1 any information and submit any reports the Department of Revenue or the funding
 2 commission may require to effectuate the provisions of this section. In addition, the
 3 funding commission may enter reciprocal agreements with other governmental
 4 agencies for the exchange of information necessary to effectuate the provisions of
 5 this section.

6 (7) The special fund shall be required to maintain a central claim registry of all claims
 7 to which it is named a party, giving each such claim a unique claim number and
 8 thereafter recording the status of each claim on a current basis. The registry shall be
 9 established by January 26, 1988, for all claims on which payments were made since
 10 July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all
 11 claim files in the possession of the special fund.

12 (8) The fund heretofore designated as the subsequent claim fund is abolished, and there
 13 is substituted therefor the special fund as set out by this section, and all moneys and
 14 properties owned by the subsequent claim fund are transferred to the special fund.

15 (9) Notwithstanding any other provisions of this section or this chapter to the contrary,
 16 the total amount of funds collected pursuant to the assessment rates adopted by the
 17 funding commission shall not be limited to the provisions of this section.

18 (10) All assessment rates imposed for periods prior to January 1, 1997, under KRS
 19 342.122 shall forever remain applicable to premiums received on policies with
 20 effective dates prior to January 1, 1997, by every insurance carrier writing workers'
 21 compensation insurance in the Commonwealth, by every self-insured group
 22 operating under the provision of KRS 342.350(4) and Chapter 304, and against the
 23 premium, as defined in KRS 342.0011, of every employer carrying his own risk.

24 ➔Section 81. KRS 342.143 is amended to read as follows:

25 For the purposes of this chapter, the average weekly wage of the state shall be determined
 26 by the executive director as follows: On or before September 1 of each year, the total
 27 wages reported by subject employers under the Kentucky Unemployment Insurance Law

1 for the preceding calendar year shall be divided by the average monthly number of
 2 insured workers (determined by dividing the total number of insured workers reported for
 3 the preceding year by twelve (12)). The average annual wage thus obtained shall be
 4 divided by fifty-two (52) and the average weekly wage thus determined rounded to the
 5 nearest cent. The average weekly wage shall be certified to the executive director by the
 6 Education **and Workforce Development** Cabinet in a manner prescribed by the executive
 7 director by administrative regulation. The average weekly wage as so determined shall be
 8 applicable for the full period during which income or death benefits are payable, when the
 9 date of occurrence of injury or of disability in the case of disease, or of death, falls within
 10 the calendar year commencing January 1 following the September 1 determination.
 11 Whenever a change in the average weekly wage of the state is of such amount that the
 12 minimum weekly income benefits for total disability or for death are increased or
 13 decreased by one dollar (\$1) or more, or the maximum weekly income benefits for total
 14 disability or for death are increased or decreased by two dollars (\$2) or more, computed
 15 in each case and rounded to the nearest dollar, an adjustment in those minimums or
 16 maximums which are affected in the requisite amount by the change in the average
 17 weekly wage of the state shall be made which will reflect this increase or decrease, but no
 18 change in such limitations shall otherwise be made. Notwithstanding the provisions of
 19 this section, KRS 342.140 and 342.740, or any other provisions of this chapter to the
 20 contrary, the average weekly wage for calendar years 1995 and 1996 shall be determined
 21 to be no higher than the average weekly wage determined by the executive director to be
 22 in effect in the calendar year of 1994. If the average weekly wage calculated by the
 23 executive director is determined to be lower than the 1994 calendar year wage, the
 24 average weekly wage may be lowered as provided by this section. Beginning in calendar
 25 year 1997 and annually thereafter, the average weekly wage shall be calculated based
 26 upon the state average weekly wage in effect two (2) years prior to that calculation.

27 ➔Section 82. KRS 342.710 is amended to read as follows:

- 1 (1) One of the primary purposes of this chapter shall be restoration of the injured
2 employee to gainful employment, and preference shall be given to returning the
3 employee to employment with the same employer or to the same or similar
4 employment.
- 5 (2) The executive director shall continuously study the problems of rehabilitation, both
6 physical and vocational, and shall investigate and maintain a directory of all
7 rehabilitation facilities, both private and public.
- 8 (3) An employee who has suffered an injury covered by this chapter shall be entitled to
9 prompt medical rehabilitation services for whatever period of time is necessary to
10 accomplish physical rehabilitation goals which are feasible, practical, and
11 justifiable. When as a result of the injury he is unable to perform work for which he
12 has previous training or experience, he shall be entitled to such vocational
13 rehabilitation services, including retraining and job placement, as may be
14 reasonably necessary to restore him to suitable employment. In all such instances,
15 the administrative law judge shall inquire whether such services have been
16 voluntarily offered and accepted. The administrative law judge on his own motion,
17 or upon application of any party or carrier, after affording the parties an opportunity
18 to be heard, may refer the employee to a qualified physician or facility for
19 evaluation of the practicability of, need for, and kind of service, treatment, or
20 training necessary and appropriate to render him fit for a remunerative occupation.
21 Upon receipt of such report, the administrative law judge may order that the
22 services and treatment recommended in the report, or such other rehabilitation
23 treatment or service likely to return the employee to suitable, gainful employment,
24 be provided at the expense of the employer or his insurance carrier. Vocational
25 rehabilitation training, treatment, or service shall not extend for a period of more
26 than fifty-two (52) weeks, except in unusual cases when by special order of the
27 administrative law judge, after hearing and upon a finding, determined by sound

- 1 medical evidence which indicates such further rehabilitation is feasible, practical,
2 and justifiable, the period may be extended for additional periods.
- 3 (4) Where rehabilitation requires residence at or near the facility or institution, away
4 from the employee's customary residence, reasonable cost of his board, lodging, or
5 travel shall be paid for by the employer or his insurance carrier.
- 6 (5) Refusal to accept rehabilitation pursuant to an order of an administrative law judge
7 shall result in a fifty percent (50%) loss of compensation for each week of the
8 period of refusal.
- 9 (6) The executive director shall cooperate on a reciprocal basis with the Office of
10 Vocational Rehabilitation and the Office of Employment and Training of the
11 Education and Workforce Development Cabinet. In the event medical treatment,
12 medical rehabilitation services, or vocational rehabilitation services are purchased
13 for an injured employee by the Office of Vocational Rehabilitation or Office of
14 Employment and Training following the refusal by the employer or his insurance
15 carrier to provide such services, the administrative law judge, after affording the
16 parties an opportunity to be heard, may order reimbursement of the cost of such
17 treatment or services by the employer or his insurance carrier as apportioned in the
18 award. This section shall not be interpreted to require mandatory evaluation of
19 employees based on length of disability. Any administrative regulations
20 promulgated pursuant to this section that require mandatory referral to a qualified
21 rehabilitation counselor shall expire on April 4, 1994.
- 22 (7) An employee who is enrolled and participating in a program of rehabilitation
23 training pursuant to this section may elect to receive an acceleration of benefits as
24 awarded under KRS 342.730. Such acceleration shall be available to the employee
25 during the period of retraining, but in no event shall be paid in a weekly amount
26 greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage
27 upon which the award is based, not to exceed one hundred percent (100%) of the

1 state average weekly wage. Upon successful completion of the rehabilitation
 2 program, the total of all accelerated benefits paid shall be deducted on a dollar-for-
 3 dollar basis, without discount, from weekly benefits otherwise due the employee
 4 subject to the maximum amount of the award. Such remaining benefits, if any, shall
 5 then be divided by the number of weeks remaining payable under the award, and
 6 that amount shall be the weekly benefit due the employee. If a program of
 7 rehabilitation training is terminated by the employee prior to completion, all sums
 8 paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265
 9 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due
 10 the employee subject to the maximum amount of the award. Such remaining
 11 benefits, after the discount, shall be divided by the number of weeks remaining
 12 payable under the award, and that amount shall be the weekly benefit due the
 13 employee. In no event shall this subsection be construed as requiring payment of
 14 benefits in excess of the total of those benefits which would otherwise be payable
 15 under the award.

16 ➔Section 83. KRS 342.740 is amended to read as follows:

- 17 (1) For the purposes of this chapter, the average weekly wage of the state shall be
 18 determined by the executive director as follows: On or before September 1 of each
 19 year, the total wages reported by subject employers under the Kentucky
 20 Unemployment Insurance Law for the preceding calendar year shall be divided by
 21 the average monthly number of insured workers (determined by dividing the total
 22 number of insured workers reported for the preceding year by twelve (12). The
 23 average annual wage thus obtained shall be divided by 52 and the average weekly
 24 wage thus determined rounded to the nearest cent. This average weekly wage shall
 25 be certified to the executive director by the Education and Workforce Development
 26 Cabinet in a manner prescribed by the executive director by administrative
 27 regulation. The average weekly wage as so determined shall be applicable for the

1 full period during which income or death benefits are payable, when the date of
 2 occurrence of injury or of disablement in the case of disease, or of death, falls
 3 within the calendar year commencing January 1 following the September 1
 4 determination.

5 (2) Whenever a change in the average weekly wage of the state is of an amount that
 6 increases or decreases the minimum weekly income benefits for total disability or
 7 death by \$1 or more, or the maximum weekly income benefits for total disability or
 8 for death by \$2 or more, computed in each case and rounded to the nearest dollar, an
 9 adjustment in those minimums or maximums which are affected in the requisite
 10 amount by the change in the average weekly wage of the state shall be made which
 11 will reflect the increase or decrease, but no change in these limitations shall
 12 otherwise be made.

13 ➔Section 84. KRS 347.040 is amended to read as follows:

14 (1) The secretaries of the Cabinet for Health and Family Services and the Education
 15 and Workforce Development Cabinet and the chief state school officer shall jointly
 16 develop and implement a statewide plan, with adequate opportunity for public
 17 comment, to serve all persons with developmental disabilities not otherwise entitled
 18 to and receiving the same services under another state or federal act, which will
 19 include provisions for:

- 20 (a) Identification and prompt and adequate interdisciplinary assessment;
- 21 (b) Case management services; and
- 22 (c) Services and residential alternatives as defined by this chapter in the least
 23 restrictive, individually appropriate environment.

24 (2) The first plan and annual updates shall be presented to the Legislative Research
 25 Commission which shall refer it to an appropriate committee for review and
 26 comment.

27 (3) The plan shall include:

- 1 (a) The number of institution residents on waiting lists for placement in the
- 2 community;
- 3 (b) The number of persons outside institutions on waiting lists for placement in
- 4 the institution;
- 5 (c) The number of persons for whom no placement is made nor services provided
- 6 because of a lack of community resources;
- 7 (d) The number, type, nature, and cost of services necessary for placement to
- 8 occur;
- 9 (e) The status of compliance with the plan;
- 10 (f) The cabinets' specific efforts to increase residential and institutional services
- 11 and documentation of the success of these efforts; and
- 12 (g) The specific plans for new efforts to enhance the opportunities for persons
- 13 with developmental disabilities to move into less restrictive environments.
- 14 (4) The state health plan shall be developed consistently with the plan required under
- 15 this chapter.

16 ➔Section 85. KRS 347.060 is amended to read as follows:

17 The Cabinet for Health and Family Services, the Education *and Workforce Development*

18 Cabinet, and the Department of Education may assess reasonable charges for services

19 rendered under this chapter, based upon a sliding fee scale which takes into account the

20 extensive services required as a result of, and the extraordinary expenses related to, a

21 developmental disability; provided that no charges for services rendered under this

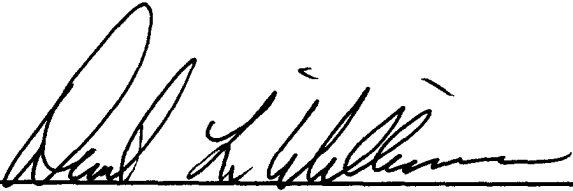
22 chapter may be assessed for compliance with requirements and responsibilities mandated

23 under any state or federal act as provided under subsection (5) of KRS 347.010.

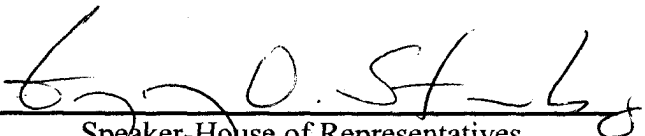
24 ➔Section 86. The General Assembly confirms the Governor's Executive Order

25 2008-530, dated June 16, 2008, to the extent it is not otherwise confirmed or superseded

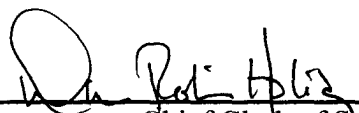
26 by this Act.



President of Senate



Speaker-House of Representatives

Attest: 

Chief Clerk of Senate

Approved 

Governor

Date 3-17-09